Second Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

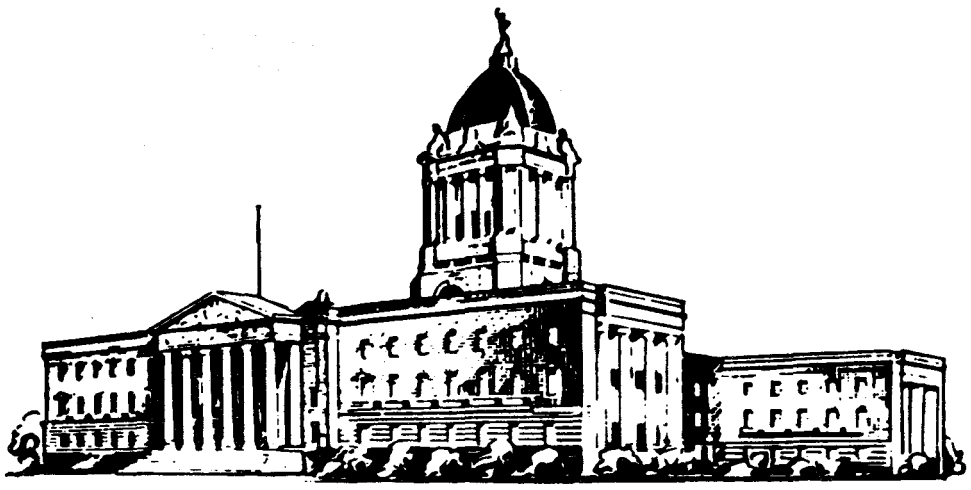
STANDING COMMITTEE

on

MUNICIPAL AFFAIRS

40 Elizabeth II

Chairman
Mrs. Louise Dacquay
Constituency of Seine River



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Thirty-Fifth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Wednesday, July 17, 1991

TIME — 7 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mrs. Louise Dacquay (Seine River)

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Derkach, Ducharme, Enns, Ernst

Mr. Carr, Mrs. Dacquay, Ms. Friesen, Messrs. Rose, Santos, Mrs. Vodrey

WITNESSES:

Wally Rooke, Hardy BBT Limited

Gary Wilton, The Great-West Life Assurance Company

Elizabeth Fleming, Winnipeg In the Nineties

Gordon Makie, Private Citizen

Ken Guilford, Private Citizen

Glen Murray, Councillor for River-Osborne Ward, City of Winnipeg

Susan Ekdahl, Consumers' Association of Canada (Winnipeg)

Mike O'Shaughnessy, Private Citizen

Ernie Gilroy, Councillor for Daniel McIntyre Ward, City of Winnipeg

Jenny Hillard, Manitoba Environmental Council

Greg Selinger, Councillor for Tache Ward, City of Winnipeg

Shirley Timm-Rudolph, Councillor for Springfield Ward, City of Winnipeg

Harold Taylor, Private Citizen

Written Presentations Submitted:

Gary Simonsen, Winnipeg Real Estate Board

MATTERS UNDER DISCUSSION:

Bill 35—The City of Winnipeg Amendment Act

* * *

Madam Chairman: Order, please. Will the Committee of Municipal Affairs please come to order to deal with Bill 35, The City of Winnipeg Amendment Act.

It is customary to hear briefs before consideration of the bill. What is the will of the committee?

* (1905)

Some Honourable Members: Proceed.

Madam Chairman: Proceed? I have a list of individuals wishing to appear before this committee. Number 1, a spokesperson to be named from the Manitoba Naturalists Society; No. 2, Mr. Wally Rooke, Hardy BBT Limited; 3, Mr. Gary Wilton, Great-West Life Assurance Company; 4, Ms. Jenny Hillard, Manitoba Environmental Council; 5, Mrs. Elizabeth Fleming, Winnipeg In the Nineties; 6, Mr. Gordon Makie, Private Citizen; 7, Mr. Ken Guilford, Private Citizen; 8, Councillor Glen Murray, River-Osborne Ward for the City of Winnipeg; 9, Miss Susan Ekdahl, Consumers' Association of Canada (Winnipeg Branch); 10, Mr. David Brown, Private Citizen; 11, Mr. Mike O'Shaughnessy, Private Citizen; and No. 12, Councillor Ernie Gilroy, Daniel McIntyre Ward, City of Winnipeg.

Additionally, we have one written presentation from the Winnipeg Real Estate Board by Mr. Gary Simonsen, and I believe all committee members have received a copy of that presentation.

Should anyone present wish to appear before this committee, please advise the Committee Clerk and your name will be added to the list if I have not already read your name.

Is it the will of the committee to impose a time limit on the length of the public presentations?

Some Honourable Members: No.

Madam Chairman: No? We will then proceed. Is there a spokesperson here from the Manitoba Naturalists Society?

I have been informed by the Clerk that they are unable to be present this evening, and they may wish to appear tomorrow. Number 2, Mr. Wally Rooke.

Mr. Rooke, we are in the process of making extra copies of your presentation, and the Clerk, if you will

just hesitate for a moment, will distribute them for the members of the committee.

Welcome, Mr. Rooke. You may proceed.

Mr. Wally Rooke (Hardy BBT Limited): I will not take too much time of the committee. You will be pleased to hear that I am here representing several professional engineers who are very much in favour of what certain clauses of this act intend to do with respect to the improved management of the city's waterways.

I am representing Professor Jim Graham of the Department of Civil Engineering at the University of Manitoba, and a professional cohort of mine K. V. Lew of Hardy BBT Limited. Professor Graham and K. V. are two of the noted geotechnical engineers in the province and, this being the height of the construction season, are busy doing slope stabilization elsewhere and not here. So I as a materials engineer am representing the interests of the professional engineering community.

Part 15.1 of the proposed changes to the act deal with the waterways and the problems that occur on the banks of the city's waterways, it deals with the stability and the flow characteristics of the man-made channels.

* (1910)

We observe that the proposed amendments to the act have clearly been prepared after careful consideration of technical advice from geotechnical engineers. The act has been written to protect potential development closest to the waterways and also to protect the water-transport capability of the waterway.

We wanted to address many of these points in the anticipation that some people may wish to maintain the status quo, and we certainly wanted to have statements in favour, on record.

The act shows an appreciation of the principal factors that control the stability of slopes in the Winnipeg clay. The various terms used in the act are clearly and helpfully defined. The act shows an awareness of the constraints faced by consulting geotechnical engineers and civil engineering contractors in designing and constructing stable slopes in the city.

We are particularly pleased to note the attention that is now drawn to the importance of surface and subsurface drainage which is an addition to the prior responsibilities under The Rivers and Streams Act and of the river bed. Inclusion of consideration of the frozen surface of the waterway also seems to us an important addition to the provisions of the act.

We are pleased to see continuation of the regulation of proposed construction by a designated employee of the city, of course. This seems to us to be essential in protecting the amenity value of the riverbanks and the utility of the channel. We are pleased also to see the introduction of new regulations that provide for enforcement of compliance with the act. In the past, this has been a weak area, and there has been a potential for changes to be made between someone proposing to do something and having a permit under the rivers and streams authority, and what was actually constructed. Many times, things were different from what was actually built.

The new act should allow for better enforcement so that construction will correspond more closely with proposals.

On the question of planning, we express some disappointment that the act is not more specific about what will be or will not be acceptable to the designated employee. Following approval of the act, we suggest that there would be advantage in arranging some mechanism whereby consulting geotechnical engineers and the designated employee could establish a consensus about what should be included in an application for a permit. This could be done through the offices of the geotechnical staff at the University of Manitoba, or through the Winnipeg branch of the Canadian Geotechnical Society.

The act places a heavy responsibility on the designated employee, and it will be important for him or her to establish what is good, well-established, international practice in the area of riverbank engineering and what is acceptable in Winnipeg. These may or may not be the same.

* (1915)

Also, on the question of planning, we would like to see more recognition of the importance of riverbanks in regional and recreational development. Recent efforts to "rescue" the riverbanks for the recreational use of all Winnipeggers seems to us to have been very valuable and largely successful, and I have had some personal nontechnical involvement in that as a past president of a citizens group known as the Riverbankers. Nevertheless, some difficulties exist

along the pathways that are already complete, both technical and from a planning point of view. The current amendment of the act allows opportunity for more clearly defining regional and recreational needs of the population, in addition to the needs of flood-carrying capacity in the channel.

We compliment the drafters of the amended act on the clarity of its writing and its clear expression of the technical needs of the subject matter.

That is our presentation, Madam Chairman. If there are any comments or questions I—

Madam Chairman: Thank you, Mr. Rooke. I am sure there will be some questions of the committee. Are there questions of the committee?

Ms. Jean Friesen (Wolseley): You will appreciate that I am not an engineer, so I am going to ask questions that may seem very simplistic to you, but I am wondering about this difference that you indicate between "good, well-established, international practice" and "what is acceptable in Winnipeg." So, first of all, what is the difference between the two? Why would there be any difference, for example? Then maybe we could look at the way in which that is achieved.

Mr. Rooke: I think this, too, would be possibly beyond my canon. As I commented at the outset, my specialty is in materials engineering, designing concrete and asphalts and a variety of materials. I am not a riverbank engineer myself. K. V. Lew and Professor Graham, who unfortunately are not with us, they, of course, are very much involved in this on an international scale. Both of them have worked from one pole to the other on a world-wide basis. They were assistants, the principal draftees, of this commentary, so I am afraid I cannot answer it directly.

Ms. Friesen: Is it possible that they could respond to that question in writing?

Mr. Rooke: Yes.

Ms. Friesen: Can I follow up on that then?

Mr. Rooke: We had such short notice. K. V. is in Seattle—

Madam Chairman: Mr. Rooke, excuse me, please, just for one moment. I wonder if you might just pause. You should be recognized through the Chair, and it is in order to assist our recording through Hansard. Thank you.

Mr. Rooke: Yes, we can certainly have K. V. and Professor Graham respond in writing to elaborate on those comments. As I say, we had relatively short notice, and K. V. is in Seattle for most of the summer and unable to be here.

Ms. Friesen: The one thing that you seem to have problems with is on page 2 in the second paragraph. We are disappointed that the act is not more specific about what will or will not be acceptable to the designated employee. What level of specifics is missing? Could you give us some examples?

Mr. Rooke: Well, with respect to planning, the designated employee who we anticipate will be the current bank stability engineer—I am afraid I forget his title, but Don Kingerski at the city is, of course, by profession a professional engineer and has no particular training in the aspects of planning. He will require some considerable direction as to the planning aspects. He has now been given more power to expedite technical questions, but the planning questions remain in a bit of a gray area. He could often accept certain projects for their technical competence in that they will not slide into the river, but the question still remains as to whether they are useful, correctly planned.

I had a personal concern—which is long past redemption now, I suppose—as a specific example, the boat basin, the one that was controversial a year or so ago at The Forks. I had a particular concern about its planning. The siting of it, not its stability, but should it in fact be on the Assiniboine from a safety point of view as to boat traffic travelling up and down the Assiniboine, should it not be on the Red? At the moment, and even now, there is no particular review of such situations. The stability of that basin and the like has already been well reviewed from a technical engineering point of view, but whether it should in fact have been sited there for other reasons may not necessarily be addressed by the normal procedures of review of river property improvements. That type of thing is what we are commenting on.

* (1920)

Ms. Friesen: What kind of regulation or proposal would address that issue? Are we looking at some broader powers for riverbank planning? Are we looking at a set of regulations dealing with that? Can it be done within existing City of Winnipeg bylaws?

Mr. Rooke: I believe it could certainly be done with existing City of Winnipeg organizations, meaning the Planning Department. I am not clear as to—and

we have not got a specific recommendation as to—what should be the chain of command. Obviously, there should be a very strong direction and liaison between the designated employee and his department and the Planning Department to see to it that we do not have things slip between the cracks like that.

Ms. Friesen: Presumably that would require the setting out by the Planning Department of an overall plan for Winnipeg rivers?

Mr. Rooke: Yes, that is something that is definitely missing at this point, and in my involvement with Riverbankers, that is exactly what we were trying to make happen. We were most disappointed to see the provincial intentions to develop a riverbank corporation, that it was given short shrift by City Hall, because the city seems to not recognize this great gap in their planning. The city recognizes the rivers are an amenity. Yet it is not properly addressed in its general planning.

Ms. Friesen: So that, in the absence of that kind of overall riverbank planning then, it is difficult presumably to address any of these planning issues other than on an ad hoc basis, one by one.

Mr. Rooke: That is right. Under the current situation it would even now continue to be pretty much an ad hoc basis.

Ms. Friesen: I wanted to move on to the last paragraph when you talked about the current amendment to the act allowing opportunity for more clearly defining the regional and recreational needs of the population. I am wondering if you consider that is the role of the City of Winnipeg to look at the regional planning for rivers, and the recreational needs of which population are you talking about?

Mr. Rooke: Well, to answer your last question first, there would be obviously the population at large, not just river owners or anything of that nature. I am just reading again and these bifocals, I have a little trouble reading here.

Definitely the City of Winnipeg has to take a leadership role. I mean, it obviously is the largest player in a regional plan. To date, as the example I just cited of the riverbank corporation going nowhere at city hall was an obvious example of the city in effect roadblocking any regional planning, because that was one of the key elements of the riverbank corporation.

Ms. Friesen: Why would you suggest that the city should take the leadership role? Why would you not continue to press for the province to take the leadership role?

Mr. Rooke: It obviously has to be a co-operative effort, and unfortunately when one major player does not respond—as I understand it, it never really got onto the committee's agenda, certainly not thoroughly discussed. That was extremely disappointing all around, but that was the end of it, and it has been some 14 months since it has even been discussed as far as I know at City Hall.

* (1925)

Mr. Conrad Santos (Broadway): In the matter of planning, there is often a divergence of use among the technical people who mostly constitute the planning bodies, either at the provincial or municipal level, and the general body of citizens. Do you think it is useful sometimes to hear input on ideas from the general population, or nontechnical people, in the matter of planning the use of riverbanks?

Mr. Rooke: Very much so. That was one of the strengths of the proposed riverbank corporation, that it intended to have not only elected representatives and their appointees, but the public at large. This was somewhat of a precedent-setting corporation I suspect, Mr. Minister, was it not?

The fact remains that I was personally involved on one of the riverbank committees—or the riverbank committee of the Core Area Initiative, again where the city, the province and the federal government co-operated, and I in my role as the Riverbankers president was given a full voting seat, and it worked very well.

I do not think it was anything to do with the personalities. It was the fact that the three levels of government and the public at large were now represented around a table on a monthly basis to talk about very specific activities, including the walkway that leads out from the back door here. There can be very strong interplay that way. The major advantage, as I see it, when there is public involvement, is it tends to thwart the general feeling that a lot of these committee decisions are made in secret and things are being done behind your back.

I can remember on that committee with the Core Area, when there was to be a general analysis of the area along here, not how do you design this walkway, but should there ever be a walkway, would it create an instability situation? There was a debate in the committee at the Core as to whether we should announce publicly that such and such a

consulting firm was retained to do this study. I pointed out that if you did not announce it, someone would find out about it three weeks later, and then you have got all this explaining to do as to why you did not announce it.

That was my small contribution as the public, to simply say well, tell them. What do you have to lose? The Free Press is not going to put it on the front page, but at least it will be on file that such and such a firm is, in fact, investigating it. It was done and, obviously, there was, as far as I know, no real controversy about the walkway at all because of the manner in which that was handled, not just from public relations, but all the way along. So, yes—

Mr. Santos: What procedure, in your opinion, Mr. Rooke, would be useful in order to ensure that other opinions other than those who are directly involved in the project will be heard before a project is approved or plans are finalized?

Mr. Rooke: I believe it would have to be something like our appointment of several public seats. Several seats within the committee would have to be designated as having the role of public representation, and then on a rotation basis two dozen recognized groups would be selected on an annual basis to rotate in and out of that chair. That type of thing is done in the arts community, for example, with the Arts Gaming Fund and the Sports Gaming Fund all the time, very routinely, and it works. There is a constant representation of the public of different interests rotated in and out.

Mr. Santos: What constraint would you suggest in order to ensure that these organized groups in the community will not be captive by the government at either the municipal or provincial level of government, so that they merely confirm or reflect whatever is the official view on the issue.

Mr. Rooke: I do not know that you can ever avoid that happening to some extent, but as I say, it has worked in other areas in the arts and in the sports. When we start talking about—I guess what we are saying is, planning or ecological groups wishing a constant input, for instance, the Manitoba Eco-Network. That is supposed to be a clearing house of ecological interests. If they were given sort of a permanent seat, it would be up to them to appoint who they felt was a useful appointee. Therefore, it was in their organization rather than an individual who is appointed to these situations. That certainly is how the arts and the sports do it, by organization.

* (1930)

Mr. Santos: That is fine for the organized community group. What about the unorganized public? How can we ensure that their opinion which may, perhaps, vary from the organized groups, be also heard?

Mr. Rooke: I would have to say that, as we did with the river bankers, if you have a community of common interest, you form a recognized group. You become involved in a group. If your concern is wildlife, then you respond through the naturalists. You have to make your case with these other smaller groups before you have any right to start making a case to a provincial legislative committee.

Mr. Santos: Thank you.

Madam Chairman: Are there further questions of the committee? If not, I would like to thank you for your presentation, Mr. Rooke.

Mr. Gary Wilton? Good evening, Mr. Wilton, you may proceed.

Mr. Gary Wilton (The Great-West Life Assurance Company): Good evening, Madam Chairperson, members of the Municipal Affairs Committee, ladies and gentlemen. I am here on behalf of the Great-West Life Assurance Company to comment on the proposed addition of Section 195.1 to The City of Winnipeg Act.

The act grants the city the authority to assess business taxes. It is the clear intention of the act that business taxes are to be assessed fairly. This is evident from Section 177(4) of the act, which provides that assessments must be fair and just in relation to each other. Moreover, the differing classes and rates of business taxes were removed from the act in 1989 in preparation for integration of a uniform tax rate.

The proposed Section 195.1 is not consistent with this stated principle of fairness. It is inequitable for two reasons. The wording allows the city to discriminate as to who would be entitled to receive a tax credit. It is possible for a tax credit to be granted to a particular class or group of businesses only, rather than to all businesses.

Further, Section 195.1 allows the city to discriminate as to the amount of the tax credit. This is, in fact, being done in the proposed 1991 formula. The formula provides for a credit of 75 percent of the

increase in excess of 10 percent to a maximum of $7,000. The effect of this maximum is to discriminate against larger businesses such as Great-West Life in that they do not receive a credit which is at all meaningful in relation to the overall amount of tax paid.

In a previous presentation to Executive Policy Committee of the City of Winnipeg in April, we mentioned that Great-West Life experienced a business tax increase from $474,000 in 1990 to over $932,000 this year, and that is after application of the maximum $7,000 credit. This 97 percent increase clearly demonstrates the inappropriateness of the formula, when you consider the credit reduction provides only a 1.5 percent benefit as opposed to the 75 percent available to smaller businesses.

Madam Chairperson, the proposed Section 195.1 should be amended to reflect the principle of fairness in business tax assessment. We believe that the act should require that any tax credit must be available to all businesses, and that it should be applied equitably in terms of the percentage of taxes for which a credit is received. Accordingly, we propose that Section 195.1 of The City of Winnipeg Act should read as follows:

Notwithstanding any provision in this act or any other act to the contrary, where council determines that a business assessment or the imposition by bylaw of an annual rate of business tax pursuant to Section 180(2) or 180(4) results in an increase in taxation that is unreasonable in the circumstances, council may by bylaw limit or reduce the amount of the increase in business taxation applicable for any year or years, on such terms and conditions as council sets forth in the bylaw, provided that such limit or reduction shall be calculated such that all businesses that are assessed an increase in business tax shall receive a proportionately equivalent limit or reduction.

We strongly urge the committee to give consideration to our approach to phase in which would not discriminate against the city's largest employers, but rather apportions credits equitably among all businesses. Thank you.

Madam Chairman: Thank you for your presentation, Mr. Wilton. I am certain there will be questions of the committee.

Hon. Jim Ernst (Minister of Urban Affairs): Thank you, Mr. Wilton, for your presentation. As I understand the situation, the City of Winnipeg has increased business taxes, has requested legislation which we have included in the bill to allow them to phase in dealing with that business tax over a period of time.

Your suggestion here is that you are not being treated the same as other businesses of the community?

Mr. Wilton: That is right.

Mr. Ernst: Can you perhaps detail that a little bit more for members of the committee?

Mr. Wilton: The specific problem has to do with the phase-in formula that the city has adopted and implemented. As I mentioned in the text of the presentation, the formula provides a 75 percent credit for any increase in taxes over 10 percent. Now if it stopped there, obviously, it would not generate enough funding for the City of Winnipeg, but it would be equitable. It goes on to say that credit is created up to a maximum of $7,000, so once your taxes increase, if your starting base and your increase are such that with the updating of assessment values, your increase goes past the $7,000 when the 75 percent is applied, then you no longer get any benefit out of the phase-in.

So it works very much to the advantage of the small employer with the low tax amount to start with. For a company such as ourselves, or 150 others in Winnipeg who are not small, it has no meaningful effect whatsoever.

Mr. Ernst: As I understand it then, the $7,000 increase, which in your case would reach the maximum limit, would then be phased in over the three-year period and all of the remaining tax would be payable immediately. Is that correct?

Mr. Wilton: That is right.

Mr. Ernst: Mr. Wilton, are you aware of other employers in Winnipeg or other businesses in Winnipeg who are suffering—perhaps suffering is not the correct word—experiencing this same occurrence.

Mr. Wilton: Yes I am.

Mr. Ernst: Do you have any idea approximately how many that would encompass and what the order of magnitude for those businesses are?

Mr. Wilton: I have specific details in my files back at the office and I could respond in writing. My recollection is that they are something in the range of 150 to 160 businesses who are receiving

increases in excess of $50,000. Then, of course, it scales down from there, and there would be many others well in excess of the $7,000 as well.

Mr. Ernst: I just have one other question, Mr. Wilton. You have approached the City of Winnipeg in this regard, I seem to recollect you mentioned in your brief, and that certain correspondence—and I think I saw television coverage of the event. Presumably, the City of Winnipeg has not considered your request?

Mr. Wilton: The City of Winnipeg, I believe, considered the request. The indication that we got at the time, we being the group of large businesses who at the time were arguing against this phase-in formula, was that the tax bills at the time of the Executive Policy Committee had already been prepared based on that phase-in formula and, in their minds, it was too late to do anything about it. So they mailed the tax bills out within a matter of a few days after our presentation.

Madam Chairman: Are there further questions of Mr. Wilton?

Mr. James Carr (Crescentwood): Mr. Wilton, just one question, in your proposed amendment, I see the words "results in an increase in taxation that is unreasonable in the circumstances." What does that mean? What is unreasonable and what are the circumstances?

* (1940)

Mr. Wilton: I believe you would have to ask the drafters that. Those words, I believe, were carried over from the original amendment. We simply added in the passage "provided that such limit or reduction shall be calculated such that all businesses that are assessed an increase in business tax shall receive a proportionately equivalent limit or reduction."

All we are saying is that whatever the city decides is reasonable, that criteria ought to be applied equitably across all businesses.

Madam Chairman: Are there further questions of Mr. Wilton? If not, I would like to thank you for your presentation, Mr. Wilton.

Mr. Wilton: Thank you.

Madam Chairman: Ms. Jenny Hillard. Mrs. Elizabeth Fleming. Mrs. Fleming, do you have a written presentation for the members of the committee?

Mrs. Elizabeth Fleming (Winnipeg In the Nineties): No, I do not.

Madam Chairman: Thank you.

Mrs. Fleming: I am speaking on behalf of Winnipeg In the Nineties. Some aspects of the proposed amendments in Bill 35 are welcome and do provide some more public hearings and some good points, I think, that will improve The City of Winnipeg Act.

Our objectives lie particularly in stressing the need for openness of government at the municipal level for accountability of the politicians to the citizens. This has been a problem in the past and we, therefore, view Bill 35 with some of these things in mind.

First of all, close to 577, Part I, the Periodic review. A deadline of readoption or replacement of Plan Winnipeg by June 30, 1992—

Madam Chairman: Order, please. Just one moment.

Ms. Friesen: There are a lot of segments to this bill. If the presenter could refer to the page number so I can follow while she is talking.

Madam Chairman: Thank you for drawing that to the attention. Do you have the page number notated in your presentation, Ms. Fleming?

Ms. Fleming: No, I do not.

Madam Chairman: Ms. Fleming, you may proceed.

Ms. Fleming: It is 577, Clause 1 at the beginning of the Review of Plan Winnipeg.

The feeling is that the deadline of June 30, 1992 might be a little bit soon considering that, very commendably, the review process is calling for extensive public hearings. Because it requires such a lot of consultation between the province and the City of Winnipeg, we are hoping that deadline is not necessarily set in stone.

Secondly, given that the three major goals that are mentioned at second reading in Hansard May 17 of this year were (1) to rationalize and clarify the provincial and city authority over planning and development matters; (2) to maximize the city's autonomy on matters considered of a local or administrative nature, and (3) to ensure local government accountability and decision making, the points made in 581(1)(c) which allows the minister to refer the proposed Plan Winnipeg bylaw to the Municipal Board, raises some concerns.

First of all, on the openness principle—the reason here is because although the Municipal Board calls for public hearings, it does not have to make its report and recommendations to the minister public. They can go directly to the minister and even freedom of information probably will not allow the public to see what that report and recommendation says. Also, the Minister of Urban Affairs (Mr. Ernst) would not have to give reasons for a final decision on such a proposed amendment.

Secondly, on the accountability front, it is perhaps worth noticing that the Manitoba board is a provincially appointed board and there are a possible six Winnipeggers on that board. It is of concern that there is input from people from Winnipeg and that they be of a nonpartisan nature and are conversant with the planning aspects, I think.

From the Municipal Board's report recommendations, the minister can give written notice to council of his or her decision to council requiring an amendment to be passed. If the amendment is not passed, then according to point 582(1) to the proposal, the minister may refer the proposed amendment to the Lieutenant Governor. This would seem to conflict with the goals of the proposed amendment that I read out before, especially if the next clause, 582(2) would allow the Lieutenant Governor in Council to enact on, or amend, the proposed amendment. It would then be deemed to have such force and effect as if it were a bylaw passed by council. I think here there is some ambiguity as to whether it is council's bylaw or whether it is the province's at this point, and I think there would be problems for people trying to follow it to know what stage it is at, in either the Municipal Board council or with the Minister of Urban Affairs.

I think the same point holds with the Planning Appeal Board that is being proposed, and here it would be a three-person, council-appointed board. I think it is perhaps more bureaucracy that the public, in trying to follow a particular item through council and through the various channels that are now being proposed, would have difficulty in following.

That is all that I have. If there are any questions or comments—

Mr. Ernst: I want to thank you for your presentation. I just want to clarify one thing with respect to Plan Winnipeg, or perhaps I can ask the question. Are you aware that the City of Winnipeg was supposed to have passed or have completed review of Plan Winnipeg by April 30, 1991 and that they in fact did not meet that deadline?

Ms. Fleming: I was aware of that, yes.

Mr. Ernst: I might also say, Madam Chairman, that with respect to the deadline for June 30, 1992, the intent was that this council that was conducting the review of Plan Winnipeg be the council that complete the review of Plan Winnipeg and that historically, after the end of June in any election year which 1992 would be, things happen that are a little different than occurs in the rest of the period of time that council is in place and/or things do not get done that should be done because of a variety of other reasons. So our concern was that the council that reviewed Plan Winnipeg be in fact the council that completed the review and whatever their recommendations were for adoption. So that is the reason for the deadline, and we appreciate it is a tight deadline. We have assurances from Mr. Gilroy, who is seated in the gallery behind you, that is possible and they have produced a timetable to do that. So we are confident that will occur and that appropriate work will take place.

With respect to the Plan Winnipeg amendment, the present legislation gives the minister of the day the power to approve an amendment. The proposal here changes that and takes the power from the minister, who has sole authority, and gives it to cabinet, Lieutenant Governor in Council, so that there is a broader discussion and a broader consideration by the government with respect to that issue, as opposed to having one minister do it.

* (1950)

I do not expect that this legislation will ever have to be used, but the potential exists that if, when referred to the minister for consideration after second reading, the minister proposes an amendment, the City Council could well not adopt that amendment which in my view, and I think in the view of most, would frustrate the process of having it referred to the minister in the first place. If you are not going to have a provincial interest in this matter through the Department of Urban Affairs, then we might not as well have any section in there referring it to here at all and simply let the city go its own way in terms of Plan Winnipeg. If the province is going to have an interest and maintain control over the

major development plan of the city, then it has to have some method of enforcing its wishes.

As I say, I would suspect that this section will never be used but the potential exists for concern that it is not being done and if it is not, then there is a mechanism to see that it is done, and that is the proposal in this section.

Ms. Fleming: On the first point, the deadline, I think probably since January 1, 1991, with the abolition of the additional zone, I think that has required considerable thought and debate, discussion—internally and perhaps externally—on the City of Winnipeg's relationship with the Winnipeg region. This is an area where I feel particularly that it is unfortunate that it has to be rushed, although I understand the rush now for having it done within this particular council. I think Bill 35 itself perhaps raises another few queries that the city perhaps should ponder and take into consideration when it is drafting its Plan Winnipeg bylaw.

I agree that having one Urban Affairs minister responsible for either approving or rejecting or amending a Plan Winnipeg amendment is not ideal, but I still think my point of perhaps blurred lines of accountability remain. That is still, unfortunately, a problem.

Mr. Carr: Madam Chair, Ms. Fleming, thank you very much for your presentation. I would like to talk about blurred lines of responsibility for a minute and ask for your opinion as the spokesperson for Winnipeg In the Nineties.

We are a group of legislators sitting around this table dotting the city's i's and crossing its t's. We debated in second reading this afternoon, we are listening to presentations tonight, we will likely go through clause by clause tomorrow. We do not yet have an official view from the City of Winnipeg. What is your view and the view of Winnipeg In the Nineties about who should have responsibility for what? Ought it to be legislators sitting around this table determining how the City of Winnipeg conducts its affairs or ought it to be the councillors elected by the people of Winnipeg and to whom they are responsible. What is the view of WIN on that broad subject?

Ms. Fleming: I think Winnipeg In the Nineties does not have a pat policy statement to make on that. Obviously, The City of Winnipeg Act is a provincial responsibility, that is without a doubt, so that the legislation is very important. I think, given the demographics of Winnipeg within Manitoba, the very prominent role that it plays in the province's economy and every part of our life here, there really has to be a great deal of co-ordination and co-operation between the City of Winnipeg and the province.

Perhaps in some ways we, as citizens' organization, are spoiled in that the city of Winnipeg's local government is relatively open and accessible and ordinary people can make their views known once they learn the ropes, and that perhaps we therefore view the province's role as being rather more aloof and far removed. So that we would like to see as much flexibility for openness and accountability remain within the legislation that you decide upon.

Mr. Carr: You made reference in your remarks to the Planning Appeal Board. One of the options in the path of decisions for variance and conditional use applications is that the Planning Appeal Board will have the final say and could theoretically overturn decisions taken by elected representatives of council. Does WIN have a view on that situation?

Ms. Fleming: We have not formally discussed that, so that no, I cannot speak for WIN on that.

Mr. Santos: Ms. Fleming, if the assumption is correct that it is the province which will retain ultimate control over Plan Winnipeg, why do you think it would be significant whether it will be this council or the incoming council next year which would approve or replace the Winnipeg plan?

Ms. Fleming: I am sorry, I do not understand your question.

Mr. Santos: If the assumption is correct that it should be the ultimate responsibility and concern of the province about what Plan Winnipeg should be like, why would it be significant whether according to 577(1) it is the present council or the future incoming council should do the approval or replacement of Plan Winnipeg?

Ms. Fleming: I was just concerned about the need for a rushed deadline. There are going to be significant changes if Bill 68 passes, and that is an unknown. So I do not know how much the council would change, but I can understand why the province would like to see it passed before October, say, of early October, 1992. On the other hand, the payoff is perhaps rushing through some very important items requiring co-ordination and co-operation between the two levels of government.

Mr. Santos: What I am saying, may it not be argued that this will be depriving the incoming council of its legitimate authority to go over the plan if this is rushed and given deadline that the present council should do it? The genius of our system is that whatever decision-making body there is in our level of government, there is fluidity and changing membership all the time so that there will be a constant balancing of the various interests in the city.

Mrs. Fleming: I think that is a valid point.

Ms. Friesen: As I understood it, WIN has not discussed many aspects of this bill. Is that true, or which ones has it discussed?

Mrs. Fleming: Mostly we are working from our basic principles and objectives of open and accountable government. Probably what we are going on most is our past experience with Plan Winnipeg, amendments to it and the accountability and openness problems or ease that we have had in the past.

Ms. Friesen: What I am really getting at is the timing of this bill and whether you, as one of the groups interested in the future of Winnipeg, have had the opportunity to have the Saturday meetings that you normally have to discuss these kinds of policies, or has this been an executive or—

Mrs. Fleming: What we are doing is planning a meeting in mid-September before City Week, and we hope to have a full day of discussion with a wider membership which would include more openness, we hope, and public representation, but that day will be devoted to Plan Winnipeg.

Ms. Friesen: To continue on the arguments that you have drawn to our attention for openness and accountability, I wonder if you had picked up in the bill some of the things that have been brought to my attention. Do you have the bill in front of you?

Mrs. Fleming: No, but I can get it.

Ms. Friesen: Okay. On page 72, procedural bylaws, 629(1) are permissive. They argue that "Council shall pass bylaws respecting procedure, which may include . . .". It is that permissiveness that I am wondering if you had a response to.

Mrs. Fleming: That is one that we had earmarked as being problematic.

Ms. Friesen: And (c) and (d) under that might be interpreted as not requiring posted notices in some changes. Is that the way you would interpret it?

Mrs. Fleming: We were not sure if that meant that the yellow notices that would signal changes would in fact be posted, so that is a cause for concern, because our documentation that we give to our membership, you know, mentions that they should look for those notices, and yes, that is a cause for concern.

Ms. Friesen: I hope we will be able to clarify that. My assumption is that WIN would be ensuring that in all cases of development changes, variance, zoning, subdivision, conditional use, that you would be looking for the familiar yellow posted notices.

Mrs. Fleming: That is a very important point, I think, for the public to be aware of what is happening in their community given the very scattered notice methods and routes that there are. That is a key flag for the public and should be retained if possible.

Ms. Friesen: I wanted to draw your attention to another section. It is page 79, and it is Section 641(2) under the heading Restrictions on representations. It says, "A hearing body", and as you yourself suggested in your introduction, there are a number of procedures now for public hearings which perhaps were not there before, and that is certainly laudable, but the hearing body may now restrict the nature and length of representation at a public hearing. I wondered if you had any experience with those kinds of regulations in other organizations and what your comments might be in having that inserted into The City of Winnipeg Act.

* (2000)

Mrs. Fleming: It would appear to be restrictive for the public who would wish to make representations, and I do not even know what the nature of representations might mean. It is very vague, I think. I would also mention that 642 we had also earmarked—the one below it—that "A notice and public hearing required under this Part in respect of a proposed development may be combined with another notice and public hearing where the proposed development requires two or more of the following:". I think some format perhaps needs to be specified for that so that major amendments are not mixed up with smaller items and perhaps lost in the notices.

Mr. Ernst: On those last items, were you aware, Mrs. Fleming, that they are presently in The City of Winnipeg Act, the existing act?

Mrs. Fleming: No, I was not.

Mr. Ernst: They are, and have been. I just want to ask one further question with respect to Mr. Santos' opinion that it does not matter whether it is one council or another council dealing with Plan Winnipeg. Let me ask your opinion. Do you think it is reasonable then that one councillor should conduct a review and another councillor should then adopt a bylaw?

Mrs. Fleming: Given the nature of Plan Winnipeg, a long-term planning document, my own personal opinion is that I would tend to give a lot of weight to the planning and technical expertise that is present and available both within the province through provincial planning, Urban Affairs, and through the City of Winnipeg.

I think if the basic principles of openness and accountability are perhaps reinforced, the points that Mrs. Friesen has brought up, if they were in the original City of Winnipeg Act, perhaps we need to flag them a little more definitely in this new act to make sure that in fact the public does know what is going on and where different pieces of proposed amendments or whatever, where they are, where to find them and how to have input into them.

Those basic principles, if they are in place in The City of Winnipeg Act, presumably should be valid from one council to another, and a five-year term does carry Plan Winnipeg over two councils.

Mr. Ernst: Perhaps you misunderstood my question. My question was, should the council that conducts the public hearings, conducts the review of Plan Winnipeg, hears the representations of the public, not be accountable by then passing a revised bylaw for Plan Winnipeg rather than avoiding their responsibilities and passing it on to a council who did not hear the public, who did not conduct the public review, and who either has to do it all over again, which will delay the whole process even longer, or will deal with it blindly? Is that a reasonable position to take?

Mrs. Fleming: Presumably the public hearings have been recorded, that there are minutes from them. If it really was nip and tuck and if it was being rushed through at the last moment with misgivings, then I think perhaps those items could be presented to the next council and they could continue. It would take about eight years for the first Plan Winnipeg to do.

Mr. Ernst: Ten, and I participated in most of them.

Ms. Friesen: I just wanted to come back to something the minister said. I think he was suggesting that both of the items I raised, 629(1) and 641(2) were in the existing act. Is that what you are suggesting, because my assumption is that 629(1), the one that I suggested was permissive, in fact is new, and that 641(2) certainly was in the old act? That is right. It was 580-something.

Mr. Ernst: 641(2)—

Ms. Friesen: I understand the minister's purpose in putting that in the record, but I think we are here to improve the bill, and I think the same kind of insertion of reasonable limits, such as is there with some of the inspection issues, might be something that we might want to look at.

Madam Chairman: Are there further questions? If not, I would like to thank you for your presentation, Mrs. Fleming. Mr. Gordon Makie? Mr. Makie, do you have a presentation to distribute to the members of the committee?

Mr. Gordon Makie (Private Citizen): No, Madam Chairperson, my experience is that chatting works better.

Madam Chairman: Thank you. You may proceed.

Mr. Makie: I would like to address, I guess, three parts of the act. The first is kind of a hobbyhorse. I can deal with that quickly. It is Section 474 which is found on page 10 of Bill 35.

The minister has, I guess, decided to deal a bit with historic buildings, and I think that this particular amendment does not go far enough. If, in an act, you want to recognize a public interest, an amenity value, in conservation of buildings, then I think you have to recognize a public cost.

There are several Canadian municipal models available whereby province and municipality share in the costs of maintaining those buildings which are designated as having some historic conservation interest through forgiveness of taxes for repairs in a like amount, for maintaining facades for various reasons. I just think, if you are going to do it, why not loosen up a bit and go the whole way?

We have continually the problem of people going to court or trying to go to court to say that the city has expropriated value without compensation, to say that the city has diminished their property rights by designating a building. I think that if you were to go a couple of steps further, for instance as the

government of British Columbia has done in the case of both Victoria and Vancouver, that you would ease the whole process and there would be great public approval of that kind of development. Just a couple of points on 474; I do not want to dwell on that.

More substantive issues I want to talk to you about are the sections which refer matters to The Municipal Board and which create the Planning Appeal Board and refer matters to it. I am going to speak in generalities, but I will give you the sections: Section 581(4) on page 46; 592 on page 55; 628 (1-4) on page 472, although I understand it is the minister's intention to introduce a further amendment there; and Section 24(1) of Bill 35 through subsection 4 on page 88. Again, it is my understanding that the minister intends to further amend that. On the Planning Appeal Board, Section 650 through 652 on page 83 and other references throughout the planning sections of Bill 35.

I wanted to talk a bit about the principle and a bit about the way the problems that the present act creates are resolved. It seems to me that it is very difficult for you to introduce these changes in the name of efficiency when you are going to create new bodies and new public expense.

The Planning Appeal Board does not represent efficiency in the sense of cost saving; it represents a new body and new costs. I fail to see the logic. I think that both reference to The Municipal Board and reference to the Planning Appeal Board allow elected officials to escape responsibility, to say well, we made our decision, we heard the public, but somebody else overruled us. What can we do? Our hands are tied.

As a citizen and taxpayer, I would like to see a decline in hypocrisy in public life, an increase in honesty and responsibility. I feel that references to both The Municipal Board and the creation and references to the Planning Appeal Board increase the lack of accountability available.

* (2010)

I think that in principle it is always a mistake to allow appointed officials to substitute their judgment for the judgment of elected officials. I think that whenever that happens, it is more and more difficult for citizens, taxpayers and voters to hold you people, politicians, responsible.

A fourth point: We have in relations between the city and the province a long history of each jurisdiction blaming the other. Well, the city did that, it is their responsibility. No, the province did that, it is in The City of Winnipeg Act, we cannot dodge it, we cannot avoid it. I think an awful lot of citizens would like to say to all of you: cut it out, take responsibility and get on with it.

I think that by creating these dodges for City Council, you are going to in the end increase the amount of blame that is cast from Main Street to Broadway, back and forth. I do admit that there is a problem, that some very bad decisions, very bad planning decisions are made for very bad reasons. There is a significant problem, so that we have, time after time, citizens earnestly trying to defend their interests and finding that they are overcome. We have citizens seeking recourse through the courts and perhaps not being as successful as they might want to be. We have monstrosities being foisted, physical monstrosities being foisted on the city which perhaps in hindsight we would all like to avoid. There are problems.

However, I think the system as it runs is self-rectifying. I have heard in some circles some talk of proposing an amendment to the Planning Appeal Board sections which would allow the Planning Appeal Board to act as an advisory council and refer its decision back to City Council for a final judgment. I think this is an awful mistake. I think that we have now a terrific appeal mechanism, and we have a terrific way to make judgments about whether or not good or bad decisions have been made, and it is called an election.

To draw an obvious example, Councillor Savoie and Councillor Selinger were involved with a struggle that went on for years. Various interests were involved; organizations came and went; law suits, City Council, every single committee of council was involved; every councillor was drawn willy-nilly into the dispute and, in the end, Councillor Savoie's position prevailed. But finally, in the final analysis, the electorate rejected him. Perhaps some bad decisions were made along the way. Perhaps land use could have been better dealt with in those situations. I do not think that kind of error or that kind of bad—is it bad?—that kind of difficult decision-making process is any reason to allow councillors to escape responsibility for the decisions that they make. The electorate decides; the system

works. You should leave the Planning Appeal Board out.

A final point on this: If it works for the city, if you think that a planning appeal board is worthwhile for the city, if you think that appointed officials should be allowed, in fact encouraged by law to substitute their judgment for that of elected officials; then I submit that what is sauce for the goose is sauce for the gander. I think you should set up appeal boards that second-guess you, outside the courts. I think there are a lot of people who would be delighted to be able to overturn the decisions of the Legislature. I for one would be delighted to apply for the job. Why not? That is what you are doing. If it is not a good idea in the Legislature, then it is not a good idea in City Council. Thank you, Madam Chairperson.

Madam Chairman: Thank you, Mr. Makie. Are there questions of the delegation?

Mr. Carr: Thank you for your interesting presentation. I know you have a lot of background and have studied these problems yourself over the years, and your wisdom is appreciated. I would like to ask you about the current system and the proposed system. Councillors have told us, and there are some here tonight and they will either agree with me or contradict me as the evening moves along, that more than half of the time of the community committee is spent on conditional use and variance applications, 80 percent or 85 percent of which are positive recommendations and not controversial. Do you believe that is a productive use of councillor's time?

Mr. Makie: I think that is the way councillors choose to spend their time. I have questioned many councillors. It is some years since I was intensively involved with a bill. I cannot remember the exact number, but perhaps 30 or 40 existing previous councillors that were elected since 1971, on that point and without exception, they have told me, it is a terrible thing. We spend hours and hours, and I love it. It is the best part of the job. It is the place where I get to appear before my constituents, where I can be on the chair, where I can make the decisions, where I can, in fact, shine.

So I think you get a double message from councillors on that, and I think that, on balance, it is better to spend the time. As a citizen I have appeared a few times in the interests of my neighborhood at community committees, and I really want to hold my councillors responsible for those decisions that they make on such things as variances and whose garage abuts the lane and whose eave overuns the limits and so on. I really want to hold my councillors responsible for that. That is a very popular activity, and I think a lot of citizens understand it. I think it would be a mistake to do away with it, and I think the councillors would miss it dearly.

Mr. Santos: I could see where you are coming from when you objected in principle that discretion of appointed bodies should replace the decision of an elected body. Would you be satisfied if that would not be the end of the matter, if the decision of the board would be subject to citizens' referendum?

Mr. Makie: No. I really want to answer immediately and emphatically, no. I think that you have to bear in mind that the City Council is a representative democracy. The electorate delegates its responsibilities and powers for a period of time to the elected councillors, and I want the councillors to exercise that power and not escape it through reference to an appeal board or through a referendum. I want a representative democracy that functions transparently. We can see who makes the decisions and how they make the decisions and what pressures they are subject to and which provides accountabilities, so the councillors must respond.

Mr. Santos: You said what is good for the goose is good for the gander, but there is a distinction between the Legislature as the automatic repository of popular sovereignty of the people and the council and the city which is just a creature of the Legislature. The creature of the Legislature obviously being created by the Legislature, the Legislature can ultimately determine the outcome of whatever decision it wants to make. Is that not right?

Mr. Makie: No. The Legislature is the creature of the Parliament of Canada. This debate can go on and on, like two mirrors shining into each other. The Manitoba Act delegates certain powers to you, but provincial powers vary.

Mr. Santos: I think the gentleman is incorrect in saying that the provincial Legislature is a creature of the federal Parliament. That is not correct.

Madam Chairman: Are there further questions of Mr. Mackie?

Ms. Friesen: I realize you do not have a written presentation, but could you leave a list of the sections of the act to which these principles were applicable, which you mention in the beginning?

Mr. Makie: Sure. I am not sure that it is an inclusive list, but I can do that. Yes.

* (2020)

Ms. Friesen: Thank you. I know that you have chosen to emphasize this particular aspect of Bill 35, but I wondered if there are other ones that from your experience on an earlier committee of review you might be able to give us some of your opinions on, for example, the repeal of The Rivers and Streams Act and the turning over of water authority to the City of Winnipeg. Do you have any reflections upon that?

Mr. Makie: Madam Chairperson, first, I was not a member of a review committee. I was a civil servant appointed following a competition to work with the committee, and so any views that I express are my own views. I am not trying to nor am I entitled to reflect the views of the Cherniack Committee.

Rivers and streams, waterways, I guess, on first reading of the proposed amendments, I kind of react the same—this is not going to work; this is not going to solve the problems of the multilayered jurisdiction; but, on looking it over, I think I would be prepared to give it a try. The problems are awful; the waterways are becoming more and more a matter of public concern and of public interest and public pride, so I think, well, we have to move. I suppose that finally I would just be prepared to give it a try and see how this goes.

Ms. Friesen: Even though you are prepared to give it a try, what concerns would you draw to our attention?

Mr. Makie: I will be with you in a moment. We are toward the end here, are we not? Page 26? Who said 26? That is not 26.

We have a couple of problems with the use of bridges in the city. I think we can talk all night about the abstractions in the act and about this power and that power and how wonderful it is, but we have a couple of real problems with bridges. I am not sure that this section of the act will empower the city in a way that the navigable waters act, for instance, can be ignored or somehow the use of that space over the water becomes a municipal matter and not a matter of federal concern.

I admit I am not a soils engineer. I do not understand the difficulties and problems of flood zones, and I am prepared to have somebody who knows something about that make a sensible regulation concerning that matter. I really am not sure where you are leading me in asking that question.

Ms. Friesen: I am not leading you anywhere. I am looking for opinions on this particular area.

Mr. Makie: Okay. We now have three bridges that are inoperable that provide apparently lucrative commercial possibilities, that people would like to use. Nobody can figure out a good way to do it. It seems silly.

If this will allow the city to regulate those uses, okay, I would be prepared to give it a try and let the neighbours fight if they want.

Ms. Friesen: You are probably aware of the amendments that were made to deal with an issue at Omands Creek a couple of years ago, and I wondered if you have felt that this particular bill ensured—it repeals that section of the act. Does it ensure that the same problem will not arise again?

Mr. Makie: Madam Chairperson, I am not sure that you can ensure that kind of problem will not arise again. Unless you are going to really change the nature of the way that we use water in this province and say, all water on all shores are public property and are going to be forever and ever, and pass legislation to that effect, then you are going to have to wait—well, I think it is reasonable to wait—for a crisis to occur, for some difficulty to arise, and for that difficulty to then be solved through negotiation, which was essentially what happened in the case of Omands Creek. Yes, I feel kind of strongly about that.

I am involved in various reclamation projects in natural areas, and I think the one at Omands Creek is going very well. I think the province and the city were wise in the decisions that they eventually reached on that issue, and I think that is a model.

The key aspect of a model to me is that without overwhelming legislation, Draconian legislation, saying it must be this and that, various legislators were able to work together and arrive at an accommodation which, I think, pleases everyone, except the owners of the restaurant who did not make as much money as they wanted to. Well, I think the public interest is served.

Madam Chairman: Thank you for your presentation, Mr. Mackie.

Mr. Ken Guilford (Private Citizen): If I can just have 30 seconds to complete this.

Madam Chairman: Excuse me, Mr. Guilford, do you have copies of your presentation for the committee?

Mr. Guilford: No, I do not. Sorry.

Madam Chairman: Okay. Thank you very much. You may proceed.

Mr. Guilford: May I have 30 seconds and then I will be right with you?

Madam Chairman: Is it the will of the committee to allow Mr. Guilford a few seconds to finalize his presentation?

Mr. Guilford, you may proceed.

Mr. Guilford: Madam Chairperson, members of the Legislative Assembly dealing with Bill 35, ladies and gentlemen in the audience, I would like to say that I am speaking to you not only as a private citizen but also as a concerned person.

I am a working person who could be affected by these government actions. We the people want an honest government and one who believes in working people, not only one who gives large increases in salary to the upper class while choosing to ignore the middle and lower classes.

I am totally against The Pines project giving a $350,000 loan, plus a 4.4 low-interest fee loan, for a home where senior citizens whose rent—excuse me, is anybody listening?—oh, do I chug on or—

Madam Chairman: Please proceed, Mr. Guilford.

Mr. Guilford: Good. I was just wondering if anybody was listening. I like to be listened to.

—for a home for senior citizens whose rent will be approximately $750 a month. I wish I could afford to live here. I am working at Versatile where the average wage is approximately $16 an hour, and none of us could afford to rent at such high costs.

Another project I am deadly against is moving the Weston city yards at a cost of approximately $39 million to a site two blocks further west. This movement is in order to make room for the virology lab. I want the lab but not at such an expense. I understand the site to which the city yards are being moved has just had major reconstruction at a cost of approximately $5 million. What a total waste of money.

I also understand that there is a water aqueduct under the site to which the lab will go. What is going to happen to the water? Will it be contaminated, or has anybody taken this into account? What happened to the environment study?

* (2030)

Another project I dislike is the delay of the St. James/Charleswood Bridge. Mr. Ernst, you go back and forth, I am sure. I know that you were a city councillor over in St. James; now you are in an MLA in Charleswood. It must affect you. Let us get on with it. What is the holdup?

I also would like to keep the Winnipeg Jets. I do not feel we need to spend an enormous amount of money on a new arena, especially at times of restraint that we have today.

I spoke on Bill 70 last week and listened to many speakers. Mr. Derkach, since you are the Minister responsible for Education, I am hoping that I can be educated by coming tonight and listening to you. You know, I am educating myself by watching you. Anyway, I will begin again. I know you did not listen to the last little bit, so I will start again.

I spoke on Bill 70 and listened to many speakers on the wage freeze, and also the Conservative government wants to have no collective bargaining. This is ridiculous. I have to bargain with many people every day. I have to bargain here tonight with you guys, so listen to me. This bill is total dictatorship. We have lost a lot of ground and money in the last three years discussing different topics.

On May 30, I attended and put on and chaired at a town hall meeting—I am sorry, I will go back just a minute. I got ahead of myself. I am sorry.

On May 30, I attended a town hall meeting where Jim Ernst, Jean Friesen and Jim Carr were speakers with Bill Neville, moderator. This is put on in the middle of the day, noon hour, by the downtown business people. The Conservatives were able to come out. That is very good. I took time off at my own expense to come out and listen to you people.

I am a community producer of Videon, channel 11. I held a town hall meeting at Sisler High School on June 26, 1991. I invited the same panelist that spoke on Thursday, May 30 to the downtown business people. During the meeting I got up and I asked a question, why is it being held? The reply to me was, it was being put on by the downtown business people and I could, I am sure, invite these

people out to a town hall meeting and they would be more than happy to attend. I invited the same panelist to come and speak on a topic—the city and the province, who runs the shop? Jim Ernst would not make a commitment until the last minute and then the answer was no. I was not able to publicize this meeting; however, Mr. Ernst, you may watch this channel, Videon, channel 11 on July 27, Saturday, so you can see what you missed. Because you did not come, Jim Carr did not come, Bill Neville did not come. I am very upset.

We continued with the meeting, however, and I would like to publicly thank Ms. Jean Friesen, the NDP MLA critic for Urban Affairs, and my MLA, Kevin Lamoureux from Inkster—thank you. The West Kildonan-Lord Selkirk resident advisors sponsored the meeting and Mrs. Jean Miller-Usiskin, acting chairperson for the West Kildonan-Lord Selkirk resident advisors, spoke and told the public who we are and what we want to do and what we do at every meeting. The next meeting—incidentally, Mr. Ernst and anyone else who would like to attend, our next meeting is next Tuesday. A public meeting at 5:30 and a public meeting at seven o'clock. At this town hall meeting Paul Neilson was the moderator. I would like to take this time now to thank all of the above.

Prior to the meeting Jean Friesen and Ajit Deol went into the studios at Videon and discussed how the multicultural people could become more active in a political scene. Everyone did a great job. I am really looking forward to seeing the town hall meeting, like I said before, on Videon, channel 11, Saturday, July 27, 10:30 in the morning.

I am a resident advisor in Sisler ward, and I believe we in West Kildonan-Lord Selkirk have the best community councils in Winnipeg. I attended a miniconference in June of all the resident advisors in the city. We have the right to discuss with the city councillors and raise problems in our ward as well as other concerns we have in our district No. 3. We also have the right to receive agendas prior to the meetings. We may discuss with the public their different proposals and assist them in presenting them, especially if we are in favour of them. We may ask questions of the presenter, speak on a subject, et cetera. We may suggest motions. We cannot raise our hand. We cannot vote. That is about the only thing we cannot do. This is great. I would really hope that not only that we can continue in our district but other districts may do the same. They are very anxious to do this.

We need assistance from the provincial government. We do not want and do not like this offloading of the different money from the federal and provincial governments. We are very mad about this. I just returned to Winnipeg today after visiting my mother, families and friends in Clearwater and Crystal City, Manitoba. I discussed the differences between the councillors in the country and my job as a resident advisor in Sisler. We realized that our roles are very similar and our problems are very similar. The provincial government must be more accountable. They must do a lot more work to help the working people. More and more, as time goes on, I see more and more erosion. I am sure my views are very much the same as other people. I talk to a lot of people. I am not that shy. I used to be but you guys really stirred me up.

I am laid off from Versatile till December 2nd, so I have a lot of time to do the things that I want to do. I look forward to talking with you more. I hope that we will see the review of the different proceedings in your final report.

Thank you for taking the time to listen to me. I hope that you will take some of my concerns to heart. Remember, an election is not that far away. You will be held accountable, I am sure. We have lost a lot of ground and money in the past three years discussing different topics. I would hope that there was more openness within the legislation and more good accountability. I do not want to be held accountable for taking up a lot of time, so I will close now. Thank you.

Madam Chairman: Thank you, Mr. Guilford.

Mr. Santos: Madam Chairperson, Mr. Guilford, do you think your experience as a member of a resident advisory group is useful training for citizen's participation in government?

Mr. Guilford: Yes, I certainly do. Mr. Ernst, maybe you could speak a little bit since you were a resident advisor at one time, I understand.

Mr. Santos: Madam Chairperson, do you think this is also good in the sense that it will prepare future leaders in the community?

Mr. Guilford: I can see where it has got Mr. Ernst. I can see where it has got other people. Yes, I believe as a resident advisor I have learned a lot and I do not really know how a city councillor can

possibly become a city councillor before he becomes a resident advisor, because I am learning where to go in the city for different things, for Works and Operations, for Streets and Transportation, and so on, and this is really useful.

Mr. Santos: Thank you.

Madam Chairman: Are there further questions of Mr. Guilford? If not, I would like to thank you for your presentation, Mr. Guilford.

Mr. Guilford: Thank you. I hope you remember.

Madam Chairman: Councillor Glen Murray.

Mr. Glen Murray (Councillor, River-Osborne Ward, City of Winnipeg): Thank you very much, Madam Chairman and members of the committee.

Madam Chairman: Mr. Murray, before you proceed, do you have a copy of your presentation for members of the committee?

Mr. Murray: I only got briefed on Section 20 hours ago, so I have had barely enough time to make my own notes, Madam Chairman.

Madam Chairman: That is understandable. I appreciate that. Please proceed.

Mr. Murray: I want to start off by some opening comments. I can only speak for myself here, but I can say that I think they are quite widely shared by many of my colleagues on council of all political stripe and philosophy. That is our profound sadness about what we perceive is a very unproductive relationship with the Province of Manitoba, that in recent months many people who have served on council much longer than I, have often commented on the floor of council about, to use the exact words, that relations between ourselves as a municipality—and the largest municipality in the province of Manitoba—have never been worse. The consultation and co-operation that used to be the hallmark of our relationships, in recent years seems to have declined rather rapidly.

This bill has been with the city for a bare seven weeks. This is one of the most complex and difficult and important pieces of legislation we have had to deal with in the middle of a number of other reviews in process and serious other problems. I was almost tempted to come here tonight, Madam Chair, and just simply say to you, I do not feel properly briefed. We have not had proper time at committee to deal with this, nor have I had the benefit of debate and consultation with many of my colleagues of many years experience. Many of us are undecided, quite frankly, on many of the recommendations. We have had two specially-called meetings of the planning committee, one this afternoon, the first to deal with the other sections, the second to deal with Section 20. As an emergency measure there was a rather unusual event of a subcommittee of EPC which met once to review recommendations, and great haste has been put into this.

* (2040)

It is a far change from my dealings with the provincial government of only a few months ago when, I remember, the housing legislation was started as Bill 61 and Bill 13. Both of us should be sensitive that there are difficulties that lead to delays, and I think that was an example of it. The kinds of consultations and discussions—both formal, informal—that took place between councillors, members of the Legislature and the minister of the day, were extremely positive. We left those with the disagreements that were honestly held, a much lower level of frustration and a great deal of camaraderie and understanding.

I also sit as a member of the board of directors of the Manitoba Association of Urban Municipalities. I have also watched the consultations going on right now between a very good piece of legislation that I compliment the government on, the municipal bonds proposal. I have watched the Minister of Rural Development (Mr. Downey) send delegations to every single corner of the province for broad consultation on minute details of the piece of legislation that quite frankly is much less enduring and much less significant in its immediate and regulatory impact on the larger part of citizens, and I think that kind of co-operation we enjoyed not too long ago with many other pieces of legislation.

What we have seen is press releases arrive, and to say this in a truly in a nonpartisan sense, this is not the first time that a minister has related to that. We have dealt with governments of all stripes, from time to time, most unproductively, where press releases are released and three days later a piece of legislation of some complexity is dropped on our laps. The government has made all the positive points it wants, and we are left scrambling at City Hall trying to respond, usually in a confrontational setting, extremely difficult, extremely frustrating.

I am hoping it will change. I am hoping that we will be treated very much the same way that other

ministries are dealing with other municipalities and very much return to the kind of relationship we had not so many months ago and not so many years ago with other previous governments. I know that at one point someone will eloquently state points of frustration in relations in years past, and I do not think that they are that relative to the current.

I am going to try and cover a lot of ground because this is a very complex piece of legislation. I will deal only primarily with Section 20. I want to make a brief comment about the business tax, and as chair of the city's historic buildings committee, I want to talk very briefly about Section 474 and some of the reasons why I am hoping that, given the amount of work that has gone on by your own heritage council and by our historic buildings committee, that may not be proceeded with.

First, I would like to address Section 574. I have some very serious concerns. If you want to follow along, I will try and read the sections of the legislation as I am commenting on them. I am being particularly open and frank because I have also noticed there is no media here, and it is very rare that we get a chance to let our hair down and say what we want to say. I can be a little bit more frank and direct than I might be in other situations.

It basically says that the city now has to—

Madam Chairman: Excuse me. Order, please. Councillor Murray, I just want to draw to your attention that every statement you make is definitely being recorded through Hansard.

Mr. Murray: I agree, Madam Chairman. I was very frank in my opening comments. I know that you have had—

Madam Chairman: Excuse me, one of the committee members drew to my attention that perhaps you were not under the impression that it would be on the record.

Mr. Murray: Oh no, I am quite frank, but I know what I am going to be saying today is not going to be on the front page of the Free Press, as it often is where I spend most of the rest of my time. I would like to deal with Section 574, which is basically saying that everything is a rezoning. The necessity of substituting variance for the spot zoning of one property to an inconsistent zoning district, such as C1 in R1 to allow a change of nonconforming use to less objectionable C use. This would confer permitted status instead of a conditional nonconforming status with a use by change of variance. So basically in areas like the ones I represent and many councillors who have commercial residential mix, the kinds of varied uses that have gone into creating neighbourhood main streets and the surrounding villages is going to create some considerable difficulties to that.

There are some problems with variances. Sometimes they have been used as back-door rezonings and that is a serious problem, but to totally eliminate them really removes from City Council, and especially from community committees, the ability to manage co-operatively, especially with the establishment of business improvement zones in most of these neighbourhoods, the ability of businesses especially and local residents' associations, to manage mixed uses, home businesses, and integrated boutique streets that often border between solidly residential and commercial streets. Spot zoning as an alternative is a pretty permanent fix and creates a rather broken pattern of residential development.

As you have probably experienced, this is my seventh meeting of the day, so if I am sounding a little hoarse and relying too heavily on a rather monotone read, my apologies.

That creates some real problems. I would wish that we had more time for us city councillors to consult with some of our colleagues in other cities and through some of the national associations like the Federation of Canadian Municipalities about some of the very creative solutions that I have seen in my participation in the international downtown association. The kinds of time constraints that we are dealing with right now do not allow us to really offer you, quite frankly, a blended or more constructive alternative, and I think that is unfortunate.

The other point I would like to make about it is that the need to amend the zoning bylaw to create as a conditional use some new use, not described in the bylaw, rather than approve it by variance; the variance for conditional use will result in the same, but the zoning amendment process proposed plus conditional use approval involves unnecessary and costly delay. If council wishes to bar certain use changes by variance, it can in a zoning bylaw designate which are prohibited in a district and therefore shall not be approved by variance.

In the downtown zoning bylaw, which does not pyramid uses, substantial use of variance is

essential to its functioning. If use variances were barred, the city would have to endeavour to substitute a general provision for conditional use approval of uses, which, in my opinion, are somewhere in land use impact to the listed conditional uses, i.e. a basket clause. Perhaps council should have the option, in my view, to itself remedy any existing problems by requiring it for use variances the same notice and fees as a conditional use application as well as improving the appeal process described in Section 10.

The other problem I will mention very quickly is Section 589 subsection 3, which unfortunately the 27 amendments I have not read. I mean, I understand they were tabled. I have not had the pleasure of reviewing them which makes my presentation handicapped, to say the least, and a little frustrating, to say the least. In its current state Section 589 subsection 3 proposes—

Madam Chairman: Order, please. Ms. Friesen, on a point of order.

Point of Order

Ms. Friesen: My point of order is, could you ask him to slow down a bit? I have not got the numbers yet.

Madam Chairman: It is not a point of order, Ms. Friesen, but I would ask the co-operation of Councillor Murray. There has been a request by one the committee members to ask you to slow down slightly, please.

* * *

Mr. Murray: Speaking fast is an occupational hazard of our profession, I think. Section 589 subsection 3—this is something that concerns me. Again, I have not seen the amendment so I am not sure if it a subject of amendment. It proposes the first reading of a bylaw. This would add probably an estimated four weeks and further bureaucratize the approval process, and I am hoping that Section 589 subsection 3 would be eliminated. I do not understand the use for it.

It really seems to add an unnecessary time constraint and what we have heard from people trying to do development, is that we are trying to streamline and make it more efficient, which to the credit of the work done by the minister, seems to be the intent nine out of ten times in this piece of legislation, some very positive things. This seems to run contradictory to the substance and spirit of this piece of legislation.

The next one is Section 607 subsection 3 and 608 subsection 2 and 608 subsection 3, which I think is page 5 of Bill 35. I am going to be very brief in my comments because you are going to get a litany from some of my colleagues of similar remarks and some of them may go into more detail.

* (2050)

This deals with tolerances or the passing on of minor variances to the administration. There may be some worth in that. There is a major concern that was raised. It was raised one point earlier so I will not go into it, but simply that it is very clear that the posting restrictions for variances are very clearly maintained, and if we are going to allow any variance without a posting, that is very restrictive and very minor. One example is, is someone, I do not love dealing with Mrs. Smith's brand of variances. It is not a constructive use of my time, but it does concern me when Fleet Avenue in my ward and the member for Crescentwood's ward, wants to take up three-quarters of their front lawn with a living room extension. It has a rather dramatic impact on the stability of housing in the area if two or three people do that and if someone wants to extend their store a full floor.

That sounds like a minor issue, but when you get 30 people out to a community committee and you allow those things to happen, and then you wonder why you have no more owner-occupied residential housing on that street, especially in the transitional belt of housing, of older housing stock that is typical of Fort Rouge and Wolseley and many of the other areas in the city. So that also concerns me.

Section 620 subsection 2(f) and (iii), is carrying charges and I understand that this is a matter of some contention. This deals with essentially public works that are jointly built by the city or built leading in prior to a development, usually dealing with suburban development and subdivision. It is the carrying charges that we usually charge back interest. What we have been trying to do, and this is an advancement we would like to get, is to be able to charge interest to the developer. Obviously this would apply in the first phase of a development done by one developer, and a second phase done by another, would also allow the rights of one developer who has borne the larger part of the initial

infrastructure costs to charge interest to the other beneficiary.

The city right now is not in a financially great situation, as no government seems to be this day. The delayed payments of many, many years is a serious problem right now, with the carrying charges, with the amount of interest we lose.

Most of these are goodwill agreements, so it is somewhat touch and go as to whether or not we are even able to collect money and when we collect money years later, the erosion of interest and inflation really has a fairly dramatic impact on the costs to the city.

The next one I want to talk about is Section 622, and maybe someone could just briefly answer the question. This is requesting a one-year time limit for registration of a plan of subdivision. That has been corrected basically, because we end up with an immense amount of paperwork every time. Very few people get their financing together in that time limit.

Okay. Seven—a continuation of public hearings. This deals essentially with the continuation of public hearings by written argument to council. Bill 35 would allow representations to be continued by written argument, objectives and stated reasons after conclusion of the public meeting. This is a very dangerous precedent.

The essence of a fair hearing is a full right to make representations and hear reply to representations of others. The proposed change allowing written representations to council would compel council to consider these representations in reaching a decision with no opportunity for other parties to reply, and no opportunity for other parties or councillors to question or validate the assertions made.

In other words, you would allow a debate that could be very one sided. There would be nothing stopping a large brief coming from a development company, or from a very angry group of residents, or from a business competitor, to be dropped on someone's doorstep at the last moment with no chance for review.

The whole idea is when a public hearing process takes place, both sides are allowed to be represented. All debate is heard. Councillors are allowed to question, and cross examine and any information put on that is claimed to be factual can be disputed.

It would be very hard in this kind of process to follow any laws of natural justice, and quite frankly, I would be hard-pressed to see that this would stand up in a court challenge, which I think would happen to this particular section of the legislation, would be somewhat a difficulty if it were ever challenged before the courts.

This would appear to destroy the fairness of the hearing process. It is recommended in our view that under Section 644 subsection 1 and Section 647, page 12, continuation of public hearings by written argument to council, to all representations to be continued by written argument, objections and stated reasons after the conclusions of public meetings, be deleted from the bill. I am hoping that happens, that the entire section is deleted.

Section 647 subsection 1 would take away council's option to refer a matter back to committee of council for further public hearing. It would also, quite frankly, limit the effectiveness and usefulness of a citizens appeal committee, if references cannot be made. This has only been used once by council. With the proposed smaller council, the potential for conflicts of interest in small community committees and difficulties arising are much more likely, given the intensity and volume of work that is going to be handled by a much smaller number of people.

This kind of referral mechanism is likely to become much more demanded and more needed than it is under the existing situation. There is simply no reason to take it away. If it has anything at all it has value, it certainly has a discretionary power that in no way would impede or obstruct the process. It could only contribute positively to it.

Section 11: This is another area, quite frankly, that concerns me greatly, and I have some very, very mixed feelings about. This is the establishment of a citizens appeal board.

What it allows is that given the greater, broader definition now of rezonings, the loss of use variances, and dealing with variance only for the size and bulk of properties, having this go now to a citizens appeal committee really has the potential, quite frankly, on the positive side of the argument to depoiiticize it. On the negative side of the argument, it removes, in my view, a very fundamental principle that we have had in this city, given the diverse conglomerations of what were former suburban councils and a metro government. There are few municipalities that represent as

diverse and large an urban, suburban and marginal rural area as Winnipeg does.

It basically removes accountability of variances which are very, very important under our land use laws and the protection of neighbourhoods. The successful commercial and economic development of neighbourhoods now are removed from the people who are elected and accountable, to those residences and to those business districts.

That is a very difficult argument, and I want to tell you, quite frankly, I have some very mixed feelings about it. My gut instinct, and from my experience in the last two years on a community committee and a planning committee, is that political accountability is very important. I appreciate that ultimately rezonings which are very substantive go to council. So, there is final political accountability. I am very, very concerned that given how expansive variances are in such a large metropolitan area and the ground they cover, that they in fact are not subject to final political responsibility and to an appointment of people who may not be ultimately accountable.

You have heard of the difficulties we had with our board of revision, which is probably the most similar model for a citizened panel of rotating panels of three. That has not been hugely successful. This experience does not seem to have learned fully from that. Again, the haste of it is somewhat of a problem.

I was not going to, but I want to make one comment on the business tax rates. I own a small business. I sit on the business improvement zone boards of two large business zones representing about a thousand businesses in the city of various sizes. Most of them were very happy. We have a 1938 structure that protected from really excessive taxation, where 90 percent of businesses experience less than a thousand dollar increase in their taxes.

Most smaller businesses, though no one supports tax increases of course, were blessed and happy they felt, that we did not go to the flat rate, which would have penalized and tripled the tax bill of most small businesses—my own, quite frankly, and many, many others, and there is a very great division in perception of that.

I also want to comment on one thing, and I want to say this in a way that is not intended to be critical, but it is just a fact of reality. Between 1983 and 1989 the capital debt of the City of Winnipeg grew annually from $33 million in 1983 to $101 million in 1989. This year alone we had to raise additional tax money and cut in services 7 percent of it, about 11 percent—$15 million in direct property tax, in direct interest charges, and according to our budget bureau, another $5 million in soft service charges associated with that debt.

* (2100)

That would have averaged to a 7 percent mill rate increase to cover that alone. At the same time, the rather difficult situation that the province was in led us to a reduction of lower than expected grants. We realize you are experiencing similar difficulties. It was certainly the position of Mr. Ducharme and Mr. Ernst in opposition that Winnipeg—and Mr. Ducharme in an August 1986 speech did a rather eloquent survey of the other five major municipalities in western Canada and compared that Winnipeg received less per capita financial support than any other major municipality.

So we inherited that situation and we also inherited a situation where we now have, of all of the major cities in Canada, the second highest per capita debt after Calgary. Through the Heritage Fund and the greater wealth of the province of Alberta—as you well know, the former councillors on this committee—Calgary twice had its debt written off.

So we are in a huge crunch. Our current operating budgets right now, and parks and police and in fire, are amongst the second lowest in the country. We have about the lowest operating current budget of almost any municipality of our size. We have the second highest capital debt of almost any municipality of our size. We are in a very difficult financial crunch. The business tax option in the context in the country where personal income taxes have increased at twice the rate of business taxes, and we have seen $58 million leave through the banking system in available capital loans in this province in the last 10 years. An experience common to western Canada but not eastern Canada put us in a situation where we had very, very few options.

I hope in the future that we do not beat each other up, because not only did we just settle the lowest labour settlement on the table right now in Canada in the public or the private sector, we also have a hiring freeze and the most severe vacant management strategy in place that is producing

dozens and hundreds every quarter of position reductions in what is probably the largest downsizing in municipal government. So the net impact on our salary pool should be in the range of 2 or 3 percent, which I think is very laudable for a government.

I was somewhat taken aback by some of the comments of the Finance minister (Mr. Manness) that were not constructive, and when I phoned him and asked him if he knew about the hiring freeze vacancy management strategy, and if he had read the bulletins that had come out on how our settlement compared, which was lower than every other municipality or public sector settlement within the municipal or school board level, he was not aware of that. I think that kind of dialogue is more constructive.

The last comment I want to make is Section 474 which has some serious impact with heritage buildings. I chair the city's Historic Buildings committee. I also chair a task force right now, and I have also had some very good meetings with the Minister of Culture's (Mrs. Mitchelson) heritage council. We have been trying to bring forward, and we would like to bring forward jointly with you the province a strategy on the preservation of heritage buildings. We have looked at a series of zoning amenities and taxation structures.

I have not had a chance to consult with my committee, nor with the experts at city on the impact of this section or how it could be. It is unlikely, since this committee is not meeting in this six-week cycle because it is a subcommittee of a standing committee. That is not possible and that is another frustration of the timing.

Anyway, Madam Chair, I would like to wrap up, and hopefully we will get into some two-way conversation right now. I would like to thank the committee for your patience and your indulgence of my rather lengthy presentation. Thank you.

Madam Chairman: Thank you, Councillor Murray.

Mr. Ernst: Thank you, Madam Chair. Mr. Murray, you started off your presentation by chastising me and the government in general for not having adequate consultation in your view. I would like to provide you with some information and ask if you—you criticized the Finance minister for jumping to conclusions, shall we say? Let me offer you the same opportunity.

In February of 1989 there was a meeting of the Urban Affairs Committee of Cabinet and the official delegation of the City of Winnipeg which is the formal relationship between the city and the province, where discussions with respect to parts 15 and 20 of Plan Winnipeg were started. During the fall of 1989, for the next year there was a review of drafts of parts 15 and 15.1 by city staff in conjunction with Urban Affairs staff. So that discussion with respect to those changes has been ongoing for a year.

Between August and October of 1990, there were meetings with city staff to review the part 20 amendments with Urban Affairs staff. Between February and April of 1991, we reviewed drafts of part 20 with your city staff again, having refined those matters as they went on.

On March 28, Mr. Gilroy, the chairman of the planning committee, along with city staff were briefed on the potential contents of Bill 35, although not in final bill form. It dealt with the principles and the sections that were to be amended and the content thereof. On May 15 I had distributed in the House for the first time, Bill 35. Appreciate that before, there are processes to be followed and we cannot distribute a bill in advance of it being tabled in the House. Tabled on May 15, had delivered to the City of Winnipeg copies of the bill, copies of the explanatory notes associated with the bill in sufficient quantity for every member of council.

We met with the official delegation again with respect to Bill 35 on June 18 and discussed a number of amendments, most of which you have commented on earlier during your presentation. Those were discussed with the official delegation of the City of Winnipeg, and in fact, after having reviewed some of them, have agreed with some. Some we did not agree with. Some we thought were, well, I do not want to make any derogatory comment, but we thought there were lawyers fighting over words as opposed to any matters of substance. Nonetheless, we did review the requests of the official delegation, however official or unofficial they may have been. Subsequently we will be proposing some 20-odd amendments to the bill, which will clarify in many cases the concerns that the City of Winnipeg had.

To suggest for a minute that this was somehow slapped on the table and nobody was given any consideration of that I do not think is correct in light of what I have just said. I think that there has been

considerable consultation with the City of Winnipeg. Particularly because a large number of these things are technical in nature, we had invited the chairman of the committee and his staff, an unprecedented move by and large when you are dealing with legislation, I think, to consult in advance of the bill being produced as opposed to after the bill is in fact, tabled. So that I think we have gone some distance in trying to be consultative with regard to this issue. This matter has gone on for a very long time.

In addition to that, many of the requested amendments proposed in this bill have been requested at one time or another by one city councillor or another, and have been around for a long, long time. So, for instance, the planning appeal board was a request in 1980 of the City of Winnipeg council. There are a number of requests that have come forward over a period of time, have not been acted upon or have been referred when major changes were undertaken to Part 20 of the act. So I thought that was important that information be made available to you.

Mr. Murray: The fact remains the same, though. I seem to have this piece of legislation, by the time it waded its way through city mail and provincial changing of hands for essentially six weeks, it arrived the weekend after it was tabled.

Second of all, I will not even get into a discussion about what went on at consultation at the nonpolitical level. It went on between the administration and went on between provincial staff. Quite frankly, that is absolutely relevant to me because it was not part of it.

The complexion of City Council changed rather dramatically in the last year, and I guess I can only speak as a councillor, I have to live and work with this legislation. It has a profound impact. I certainly would think that, if the federal government had similar jurisdictions over the province and proposed some of the reorganizing—and we will get some of that tomorrow—on the scale that you are and the time limits that you have, you would be very quick to make those concerns, and I made them quite frankly. No, I do not think six weeks for such a complex piece of legislation—and quite frankly, I am hoping that some of the changes that we are able to have are that there is more political responsibility and more political accountability for these kinds of decisions.

I do not accept that discussions that went on between bureaucrats, quite frankly, are a very positive substitute for frank dialogue and understanding. Considering the amount of time that it took for me to learn what these changes were—I spent an entire weekend with a yellow highlighter in Section 20 of the act, and I have not even gotten to others where I as a councillor have some primary responsibility for—calling people, consulting people and meeting with some of the residents' associations in my ward—I was not able to even answer some of their questions—then finally getting two special meetings which were basically educational sessions and discussion.

* (2110)

The chief planner, Mr. Kalcsics of the city, said to me, quite frankly, we have asked and tried to get clarifications from the province on what they mean or why they are doing this, and it is unclear to us. If the quantity of dialogue has been there, the quality of dialogue certainly has not been there. I am not saying that nothing has happened, I am just saying that I am certainly prepared and committed to working much harder for a much better form of communication and much more consultation.

I do not want to get into long detail about this, but I can take you through the process of Bill 61 and Bill 13. I can take you through the process of municipal bonds and other significant pieces of legislation, and quite frankly, this is a blink and a flash in the pan in time compared to any other thing where the provincial government, the government of Manitoba, has committed itself to true consultation and has very proudly talked about time lines that are so much more expansive than this on, quite frankly, much less significant pieces of legislation.

You and I, Mr. Minister, may respectfully disagree on this, but I certainly would like to see more time given, and I am certainly prepared to put the time and energy into doing it. I hope that would be responded by you positively.

Mr. Ernst: I just wanted to again reiterate that I do not know what the internal system of delivery of mail or information is in the City of Winnipeg. If it is not adequate as far as you as a councillor are concerned, I would suggest you change it, but we delivered by courier, on the 15th of May, sufficient copies—for every member of council—of the bill and the explanatory notes. I can tell you that the minute

it was tabled in the Legislature it arrived at the City Clerk's office at City Hall.

I do not know what happened after that. I think our responsibility in terms of advice to you at that point is concluded. We did not even ask them to make copies. We provided all the copies so that information was provided to the City of Winnipeg.

Mr. Murray: There are 27 amendments that I have not even had the courtesy of five minutes notice on. Councillor Gilroy had a copy that was given to him to review, and another councillor possibly, just in the last few moments, and I have not had that. For me to be here as a member of the planning committee and the chair of some subcommittees that are dramatically affected by this legislation and the amendments, I cannot even tell you—I can tell you now, as a result of our conversation, the contents of only one of 27 amendments, to me, seems to be somewhat outrageous.

To call it consultation and dialogue, since my time is going to expire in minutes and I will go away and read these, and given that this bill will probably be through committee tomorrow, it is really not even realistic to respond to them in writing in any detail, quite frankly, because I have to prepare at ten o'clock tomorrow morning when I am sitting on a conditional use and variance appeal committee for Bill 68 and trying to negotiate with colleagues of mine to cover off so I can come and appear again tomorrow.

These kinds of time lines, quite frankly, with amendments, are not just constructive. I mean, how you think I can respond to 27 amendments, some of them may very well have come from councillors five or 10 years ago, some who were defeated. Maybe that was part of the reason they were defeated, because they were proponents of those positions, but to proceed with a piece of legislation of such significance when there have only been two council meetings in the cycle and we cannot wait till the 31st for council to actually pronounce on that, seems to me just totally unnecessary.

Again, I will take you through the time lines on other pieces of legislation right now, of much less significance, that have much more generous time lines. Twenty-seven amendments with no notice that I have not even read, and I am sitting here, to me, seems a little outrageous and a little bit of an affront quite frankly if we take the office of councillor of the City of Winnipeg with some seriousness and we expect serious comment and dialogue.

Mr. Ernst: I make only one more comment, Councillor Murray, in that, if you are not satisfied with the way the interaction between the City Council and government is arranged through the mechanism of the official delegation, then I suggest you take that up with the City Council and have it changed.

Perhaps all 29 or 15, as the case may be, members of council want to attend every meeting. I do not know. I am being a little facetious in saying that, but at the same time, there is a mechanism that has been in place for a very, very long time, where the official delegation of the city, representing the city's interests, meets with the Urban Affairs Committee of Cabinet representing the province's interests with respect to Urban Affairs. That process went on, and discussions with respect to the amendments were done at that time. Discussions did take place as to what the province was prepared to consider and not consider.

Let me tell you also that, for the sake of the members of the committee, it does not formally get tabled here until we start to deal with it clause by clause, so that while the two critics from the opposition parties have in fact received copies, it was extraordinarily done as opposed to the way it normally is done in legislative process, and that is, to be tabled at the committee. That is all.

Mr. Murray: Here we go again. I will be quite frank with you. My discussions with members of the official delegation are that many of them share the same frustration. Quite frankly, only one member of the official delegation comes from the coalition of councillors that I am a member of. I have not seen 27 amendments that I cannot even get from the minister, and I cannot come back tomorrow. I can appear, I understand, once before the committee. I have to come back on another matter tomorrow. Quite frankly, how can you say that is consultation when there are 27 amendments on a very important piece of legislation that I have not seen, have not had the chance to read and not been circulated, and one I have not had the benefit of council decision?

Quite frankly, when the honourable minister was both a city councillor and a former deputy mayor, I would like him to tell us, out of the total number of pieces of legislation of those of this importance, how many of them the provincial government of the day, whether it was the Lyon government or the Pawley

government, passed without council having a chance to pronounce upon it and take a position on it.

No one can come before this committee tonight and speak for the City of Winnipeg, not one person. Official delegation, which many members feel has been a source of nothing but frustration, can communicate with you as the minister on behalf of the city only when City Council votes on something. You will not see, for example, Madam Chair, any employees of the City of Winnipeg coming forward. No one from our Planning Department can come forward until council has passed it, so even the technical commentary that we get from our own people on their position, you will not benefit from. What is the productive use of that? To me it is absolutely outrageous that you cannot be the benefit of the same direct opinions we had.

Quite frankly, Mr. Minister, your predecessor and the predecessor before that, that was not their practice, nor was it the practice that you most often experienced—and there is always exception, but certainly you most often experienced—as deputy mayor of the city and as a long-serving councillor of the city.

Hon. Gerald Ducharme (Minister of Government Services): I know it is one small point in this large bill, but is probably one of the more contentious ones—that is the variance and appeal. I always had a problem passing on my political judgment to, say, resident advisories, to have them vote on anything, so I can sympathize with what you have said.

I experienced quite a few variance and appeals. It was not one of my most likable experiences. It was not probably one of my prouder things to sit on the variance and appeal—I am talking about the appeal committee—probably one of the worst trading that ever went on at City Hall. It was okay to trade different projects and that at City Hall, but that was one that trading went on in the back. I think what probably bothered me most at variance and appeal was that the councillor who was in the area could not even appear at the appeal committee and express his opinion why it was either turned down or accepted at the original hearings.

To you, and I am probably going to ask of the other delegations, you must have had some discussions while you were there with your other colleagues on what would be an alternate method of dealing with variances and appeals, other than handing them over on appeal basis to nonpolitical people.

Mr. Murray: You know, we used to have a system in this city where most of those decisions were made locally by the city councils of the various towns, villages and municipalities in the area. I am not sure that 90 percent of these, quite frankly—and I appreciate your question, I share the frustration, I do not have a quick answer for it—are local issues. I do not see the problem since 90 percent of what we do, quite frankly, is rely on the district planner's report that comes forward. Having that, possibly, is the first level at which these more minor issues are dealt with and then at either reference to the community committee or appeal to the community committee.

* (2120)

Councillor Eadie, who is the speaker of the City Council, did a rather extensive survey—he is also vice-president of the Federation of Canadian Municipalities—of the different new systems. He is much more experienced and eloquent on that subject than I am. They had a number of models that were used in other municipalities, some incorporating some of the things that are in Bill 35.

I think that the role of a citizen's appeal committee could be a constructive resource in that. I think we might want to look at first if an administrative decision can be appealed to a community committee. I am not sure if we have to start with a full committee. That might be a solution. I know there are some that also have a councillor, the district planner and someone else as the first hearing that appeal to a local committee. I think that most of these decisions are local. Not too many of them have major policy implications for city-wide issues.

Yes, to Mr. Ducharme, I share your frustration. That is not one of my favourite experiences either.

Mr. Carr: Mr. Murray, thanks for your presentation. If you think it is complicated for you, you deal with this stuff every day, yet we have got the authority and the responsibility to write the legislation. -(interjection)- I used to write about it, and journalists do not have to know anything.

I am interested, now that you have had some years of experience on council, and now you are confronting a legislative committee on two very important bills, what your view is on who ought to be doing this drafting. You have got to live with what

we do here tonight and tomorrow, every day as a politician at the municipal level, yet we are telling you what the marching orders are. Is that right?

Mr. Murray: No, I think these things could be done competently by the city. The City of Winnipeg is a government three-quarters the size of the province of Manitoba. I would be quite happy, and the comments that you have made, I share about the idea that—and I know this issue is coming up federally—that cities should have constitutions, especially large municipalities, and should be a separate constitutional jurisdiction and that this would be clearly—this is so fundamental to the internal operations of a municipality.

This certainly should all be, in my view, within the legislative authority of the City Council of Winnipeg. No more than I think that you would want the federal government to interfere anymore than it does in the health care system of the province which has been the source of some frustration, I do not view having another body other than the one that has to deal with managing the process having so much involvement. Quite frankly, no, I think it would be much more constructive if we could deal with these. My other frustration with this is that this is not my agenda.

I think the City of Winnipeg faces some extremely difficult fiscal problems and economic problems. I have some real problems that this takes up so much of our time right now. The system right now is not perfect. There are some very good things in this bill. There are some positive improvements, but right now we should really be opening our eyes.

Our city is in severe economic problems. Our city is in serious fiscal restraints and, quite frankly, if we just got our grants a year earlier so we could predetermine our budgets, that would save the taxpayers a lot more money and solve a lot more of the efficiency problems that I think were meant to be addressed.

Yes, when it comes to land use and basic internal operating policies like this, I think this should be in the jurisdiction of larger cities. I would even go as far as saying that cities like Brandon should also have some authority or some more autonomy in determining their own internal procedures. I appreciate the wisdom and experience of the minister and others but—

Mr. Carr: Let us assume for a moment that were so. Are you confident that this current council would be able to achieve a consensus on all of the items and the complexities that are contained within Bill 35?

Mr. Murray: Yes, I am. I think we are. We just passed a very difficult budget. For those of you who have been on council, you know the volume of a budget. It was a very much compromised document. It was a very painful experience. I think that this council is probably one of the most balanced in its views of the various constituencies within the city. It is a very controversial council. There is great debate and philosophical division on it, but we have to deal with in one meeting every three weeks what you deal with on a daily basis. It is a fairly efficient form of government when you look at the hours spent on making decisions.

Yes, I do, and I think you will find, quite frankly, that most of the views that I am expressing on the major land use questions are shared by Councillors Gilroy and Brown and many others and Selinger. There will be some serious divisions on some issues, but 90 percent of it I think you will find on most issues like this. I think if there was not that kind of division quite there you would not have representations of some very different issues.

The folks that Councillor Clement and I, for example, who represents the minister's area, are generally on very good terms, but we have some substantial disagreements. We have often said to each other, though I do not agree with you, having been through your ward, I certainly know that I could not get elected in Charleswood, and he certainly probably could not get elected in my neighbourhood. The expectations and views we should be putting apart, hopefully would be somewhat different, but I think the willingness and compromise has been there. Yes, I do think they could.

Ms. Friesen: Thank you for your presentation. I share many of your frustrations about the speed at which this is proceeding. I certainly did not grasp all of the points that you were making. I wonder—and we are not going to be able to get Hansard for quite some time yet, so I do not quite know what to do about that. I was taking as many notes as I could, but I certainly did not have time to think about them while I was taking the notes, so I am at a quandary. I am supposed now to vote, in the very near future, on section by section. I do not want to create knowingly problems for you, certainly not ones that I would have any problems with in principle, so I am extremely frustrated by it.

I did want to draw particularly on your expertise and your interest in heritage buildings. I know that you said this is not something that you have had a full chance to study, but it is something that you want to study.

Page 10, the bylaw on buildings and conservation, do you know if there have been any—no, I cannot not even ask you that. Are there things in there that will cause problems for you, or is it an issue that they are not going far enough, or that the opportunity for joint meetings would be so much simpler? What is the level of concern here?

Mr. Murray: I would like to be able to answer you. I took my section of that legislation and cut it out and handed it to a city employee who deals with this and said look, I only have time to deal with Section 20. Could you please give me an analysis of that?

Unfortunately, that person has now gone to the national planners committee meeting in Quebec City and I have not heard back, and I had a list of questions of things that I did not understand what the implications would be given the city's existing heritage program. So I cannot answer that, and I will not be able to answer that for you for a few days, but I have also, Ms. Friesen, consulted with some people in the community. I would gladly give you their names, and I will also gladly write up overnight for you, take some extracts of that and get you notes as best I can.

I want to make the point, there are two major issues that I do not have a position on. I see the merits of both sides and I see some potential real problems with both those issues. I cannot answer them for you. The role of the citizens' panel and the issue of variances being eliminated have some positives; they also have some real negatives. I have not had a chance to consult in any detail with the city planners or with other of my colleagues on those issues. I have, obviously, from my presentation, come to some very serious conclusions after some thought and consultation on 80 percent of this bill. There are a number of outstanding issues, that being one, unfortunately, I am unable to give you much help with at this point.

Ms. Friesen: I appreciate the offer of the written material. I know how stretched you are and I know it is a very busy time, so I certainly would not have wanted to ask for it myself.

Could I draw your attention again to the buildings conservation list. I am not familiar with the details of the City of Winnipeg bylaw other than for the warehouse district, so I am wondering if in Sections B and C, I guess, it talks about limits of the construction, demolition or occupancy and C deals with the issuance of permits, cancellation of permits, construction, demolition and occupancy. I am wondering if alterations should be in there. You know the issues about the alteration of the inside or the external parts of a building, depending on the nature of the designation.

Mr. Murray: I would think so. Madam Chairman, through you to Ms. Friesen and to other members of the committee, I would be glad to table with you a copy of the Heritage Support Options Report. This is a report that is in its first phase of drafting. It is going to public consultation this fall. It has been tabled with the Heritage Council which is the body that advises the provincial Minister of Culture (Mrs. Mitchelson). It is a plan that was brought together by the Winnipeg Construction Association, Real Estate Board, Heritage Winnipeg, the architects' association and a number of other groups that have been active in development in heritage. It was basically an attempt to find a strategy that would address the needs of the construction and development industry and the heritage industry.

It was based on two principles. One was sustainable development, re-using existing building stock, and the second, heritage buildings, very similar on the principles that have been outlined by the sustainable development policies of the province and has adapted those as part of it. It is really a positive integration.

* (2130)

This is just the opinions of the industry and the heritage community and myself and a few other councillors. It comments quite relevantly, I think, on this part of the bill. I have not—this is what I wanted it analyzed in, because part of my concern is, given the amount of co-operation we have had from all of these rather diverse organizations, it seems to me to move ahead with that legislation without allowing that process that both the province and the city is involved in to conclude could mean that you would be getting requests from a rather large and diverse group of interests this fall asking for other changes, so I would have liked the time to table with the task force. I cannot do that, obviously, but I would be more than happy to table our initial report with you and with other members of the committee who may

be interested in the views of these different constituent groups.

Ms. Friesen: I wanted to clarify something else. Your presentation is on behalf of yourself as an individual councillor. It is not similar to the presentation of the official delegation because you do not know what their presentation was.

Mr. Murray: No, I cannot, and quite frankly no one can come before you on behalf of the city. The official delegation cannot represent the views of council, and it is very unusual and, in my view, somewhat outrageous that we would be proceeding. No one can come before you and say this is council's position. Quite frankly, because council has not moved a motion on this, not one member of the city staff, from our Planning Department or the Law Department or historic buildings group can come before you and make representations without that motion of council, and to me that is a formula for disaster and some great difficulty. I really beg the committee, if it is any way possible to work out some arrangement that would allow the city to finally pronounce on this, that would be most helpful.

Mr. Ernst: I just heard Councillor Murray make a comment that the City of Winnipeg cannot be represented by the official delegation.

Mr. Murray: No one can represent the City of Winnipeg on this matter, official delegation or any city councillor, until the City Council of the City of Winnipeg has passed a motion. There is a series of motions before us. That was a long discussion we had for a lengthy period of time with our Law Department and our Planning Department. It was made very, very clear, without a motion of council, there is no position of the City of Winnipeg as a constituted corporation and there is no way that any city employee can be heard by this committee, certainly not on behalf of the city or in their capacity as an employee until such a motion passes council.

I am not a lawyer, but I do trust the long experience of the city's Law Department in this matter. They were questioned and grilled.

Mr. Ernst: Councillor Murray, in your view, we should disregard any representation by the mayor and/or the official delegation of the City of Winnipeg until such time as there is a formal resolution of council. Is that correct?

Mr. Murray: Madam Chair, no. Official delegation can make pronouncements as official delegation. They can enter into discussions on behalf of the City of Winnipeg. They can represent—and God knows, if you looked at our policy manuals, we have a policy on just about everything under the sun. There is no lack of policies from which they can comment.

No one can say what the City of Winnipeg's position officially is on Bill 35 until there has been a motion passed. I know the minister knows that. There is a far difference between the city having a position on a piece of legislation, of which you have participated in many times, and has come to a vote and been passed. No one, not even the mayor, can speak on behalf of council and certainly not in the case when there has not been a position taken. It is unfortunate that we are less than two weeks, 10 days, from that happening.

Madam Chairman: Are there further questions of Councillor Murray? If not, I would like to thank you for your presentation, Councillor Murray.

Mr. Murray: Madam Chair, thank you very much. To the committee, I hope that some of my comments about our desire for greater co-operation would be heeded. I would like to thank Mr. Ducharme for his co-operation in the past, Ms. Friesen and Mr. Carr for the availability, and some of the staff in the minister's office who answered many questions for me in the last few days. Thank you very much.

Madam Chairman: Is it the will of the committee to take a five-minute recess?

Some Honourable Members: Agreed.

Madam Chairman: Agreed. The committee will reconvene at 9:45, agreed.

* * *

The committee took recess at 9:36 p.m.

After Recess

The committee resumed at 9:49 p.m.

Madam Chairman: Would the Standing Committee on Municipal Affairs please come to order.

Ms. Susan Ekdahl. I would like to draw the committee's attention to the fact that Ms. Ekdahl's presentation has been delivered to each of the committee members. You may proceed, Ms. Ekdahl.

Ms. Susan Ekdahl (Consumers' Association of Canada (Winnipeg)): Members of the committee,

thank you for hearing me tonight. Just to highlight the Consumers' Association, what it is is an independent, nonprofit, volunteer organization, and in fact it has 140,000 members in the national organization, but fully 7,000 reside in Manitoba, so we are fairly representative.

CAC Manitoba has two local organizations with offices in Winnipeg and Brandon, and it is the CAC Winnipeg local that is presenting this brief.

* (2150)

CAC Winnipeg is very concerned that such an important bill is being rushed through at the end of the session, and this has been mentioned by a few people here tonight. We feel that Bill 35 is making some very major changes in designation of authority, and we urge this committee to reintroduce it at the next session in order to allow more time for more public input and more careful consideration of the effects of some of these amendments.

CAC Winnipeg has examined all the amendments quickly and has many serious concerns about the bill. Our comments, however, will be very brief due to the unexpectantly short time available for preparation. If the bill is reintroduced and held over until the next session, we, the CAC of Winnipeg, would be very happy to submit a much more detailed recommendation on these amendments.

CAC believes strongly in the concept of sustainable development. I am sure every Winnipegger feels this way. To us, this means that consideration of the environment and environmental impacts must be a part of all economic and development policies and decisions.

We understood that Canada and Manitoba believed in sustainable development. In fact, with the location of the International Institute for Sustainable Development and the offices of the Canadian Council of Ministers of Environment being here in Winnipeg, we believed that Winnipeg was hoping to become a centre for sustainable development and environmental concerns.

Now we have before us a bill which makes amendments to The City of Winnipeg Act in such a way as to seriously weaken many aspects in environmental protection. In the opinion of the CAC Winnipeg, these amendments do not move Winnipeg closer to becoming a sustainable city.

We feel that careful land use planning is conspicuous by its absence here in these amendments. Such planning is essential with clear regulations, so that businesses who want to come here and establish themselves know exactly where they can or cannot build or operate.

In a time of recession, when many groups like Winnipeg 2000 are endeavouring to give Winnipeggers pride in our city and to attract visitors and new residents, the Legislature of Manitoba introduces amendments to The City of Winnipeg Act which effectively remove protection for our waterways specifically and do practically nothing to protect sensitive areas and open space.

The 1990s seem to be an era when most governments are increasing the amount of public consultation, having found that decisions made in partnership with other stakeholders are much more acceptable. CAC Winnipeg is frankly surprised to see that these amendments in many areas weaken instead of strengthen that public participation in this existing act.

Throughout these amendments, much authority that was previously held by committees, council or the minister is now wielded by the designated employee. We hope that the city will issue a halo with this position because of the fact that that employee will need one to satisfy all the demands of the position. CAC Winnipeg is also concerned as to who would have status as a complainant against a decision of the designated employee.

Now, just to deal with a specific amendment, CAC Winnipeg would like to express our very extreme concern over the repeal of The Rivers and Streams Act. Provisions that are made in Bill 35 for protection of our waterways are grossly inadequate, to say the least, right now. We are very upset, horrified to see the removal of Sections 624.1 from the act. CAC Winnipeg is totally opposed to any buildings other than highways and utilities which span waterways. Obviously, this is for environmental reasons. Again, this highlights our sustainable city.

We would like to congratulate, on the other hand, the writers of Section 474 which would put buildings on a conservation list, but we feel this section should begin with "Council must pass bylaws" rather than "Council may pass bylaws." We are not sure about this, why this is not that way. CAC Winnipeg would also like to see this list established by a committee with appropriate expertise, not as another job for that designated employee.

CAC Winnipeg is also concerned with Sections 471 and 473 regarding building standards and equipment. Here it is not exactly clear whether or not these amendments make it mandatory for the City of Winnipeg to pass new bylaws to ensure that the city's building standards and codes are at least equal to those adopted provincially or federally. So that point is not clear.

As mentioned earlier, CAC Winnipeg has many other specific concerns with sections of this bill, and we hope that this committee will ensure that adequate thought and consideration are given to such important amendments, and that there is further opportunity for public input and, most important, we would be willing to assist in those areas.

This is basically our brief, short as it is due to time contraints. I was not the particular author on this, but I will try and handle some questions, if I can. Thank you.

Madam Chairman: Thank you for your presentation, Ms. Ekdahl. Does the committee have questions?

Ms. Friesen: I wanted to ask you about your recommendations about The Rivers and Streams Act and the authority for Winnipeg waterways. You say you are opposed to the repeal of The Rivers and Streams Act. Are you suggesting that the authority should remain with the province, or are you suggesting that there should be some joint authority? What is your position beyond that?

Ms. Ekdahl: I cannot say that at this time.

Ms. Friesen: Okay. Could you elaborate a bit on the second to last paragraph where you talk about the city's building standards and codes being at least equal to those adopted provincially or federally? Are the specific examples you have got there that you have concerns about? Are there parts of the building code that the Consumers' Association is concerned about?

Ms. Ekdahl: It is just the overall lack of clarity. I do not have the document in my hand, but—

Ms. Friesen: They are not particular instances you are bringing to our attention; it is the wording of the—

Ms. Ekdahl: Yes. On page 5, 471, "Bylaws to adopt building standards," that is in fact a particular instance here. It says: "Council may pass bylaws not inconsistent with an Act of the Legislature or a regulation made under an Act of the Legislature, to prescribe, regulate and enforce standards for buildings, building materials and equipment." So it is that word "may".

Ms. Friesen: "May," I get it. You do not want it to be as permissive; you are looking for the "must". You are looking for that to be less permissive and for it to be a must.

Ms. Ekdahl: Explicit, that they must. Yes, we are looking that it be explicit.

Mr. Ernst: Ms. Ekdahl, are you or your association aware that—I believe it is The Buildings and Mobile Homes Act requires the City of Winnipeg to adopt the Manitoba Building Code?

Ms. Ekdahl: I personally am not aware of that, but perhaps the association, other members, are.

Mr. Ernst: It is that act that is the one that requires the City of Winnipeg to adopt the Manitoba Building Code which, in turn, is adopted from the National Building Code, so that the basic set of standards already is mandatory. This permissive legislation gives them extra authority, or additional authority over and above that.

Ms. Ekdahl: I understand that there is a need for very drastic changes to the building codes coming up and, in light of this wording, this does not say that we will be adopting the new changes.

Mr. Ernst: Perhaps you did not understand, Ms. Ekdahl, what I said. I said The Buildings and Mobile Homes Act, another act or statute to the Province of Manitoba requires the City of Winnipeg to adopt the Manitoba Building Code, which is the standard for the Province of Manitoba. So that is quite apart from this; and, if there is any major change to that in the future, they still have to adopt it; it is mandatory that they adopt it under that other act. This provides the city with some additional authority in terms of passing bylaws related to these kinds of things, but they must, as a minimum, adopt the Manitoba Building Code. So I think your concern with regard to this particular section as being the only section is not well-founded in the sense that the Manitoba Building Code already is obligatory for the City of Winnipeg.

* (2200)

Ms. Ekdahl: Thank you for that clarification.

Mr. Santos: On the fourth paragraph, the last sentence, on page 2, it is stated that "CAC Winnipeg is totally opposed to any buildings, other than

highways and utilities, which span waterways." Could you elaborate and explain why?

Ms. Ekdahl: I would say generally that it is not environmentally conducive to encourage building along the waterways. Am I answering your question?

Mr. Santos: Yes, I just want to know: Is there any instance of any building existing now which, in your opinion, should not be there?

Ms. Ekdahl: Not a building per se. Personally, I do not think you could show a large environmental damage caused by one building, but I think the trend overall would be bad environmentally.

Mr. Santos: Thank you, Madam Chairperson.

Mr. Ernst: Ms. Ekdahl, are you familiar with The Forks area in the City of Winnipeg?

Ms. Ekdahl: Yes, I am.

Mr. Ernst: And you are familiar with the fact that there is a railway bridge just adjacent to the boat basin that goes across the Assiniboine River?

Ms. Ekdahl: Yes, I am.

Mr. Ernst: Would you object to having a restaurant built in the middle of that bridge for the use of people attending The Forks?

Ms. Ekdahl: A restaurant in the middle of the bridge?

Mr. Ernst: Would you object to that? Would you object to having a restaurant built in the middle of that bridge for people attending The Forks to enjoy the scenery and the panoramic view that might be attained from that?

Ms. Edkahl: This is the railroad bridge that is operational?

Mr. Ernst: No, the other one.

Ms. Ekdahl: The other one. Can I ask you why you are asking this?

Mr. Ernst: Because that would be a building built over a waterway.

Ms. Ekdahl: I think I will do without comment on that, I am sorry.

Madam Chairman: Are there further questions of the committee?

Ms. Friesen: On the first page, at the bottom, you said: "We feel that careful land use planning is conspicuous by its absence in these amendments," and I wondered if you wanted to elaborate on that. What specifically are you thinking of?

Ms. Ekdahl: Which paragraph again, sorry?

Ms. Friesen: The bottom of the first page, "careful land use planning is conspicuous by its absence in these amendments."

Ms. Ekdahl: It is not specific. The planning is not specific; it is many. As I understand it, it is not specific enough; it is not clear and one whole plan.

Ms. Friesen: You are following that up with there "so that businesses know exactly where they can or cannot build or operate," and I am wondering what is behind this. Is there some specific examples or something that has been brought to your attention that we should know about?

Ms. Ekdahl: Not to my knowledge.

Ms. Friesen: Okay, thanks.

Madam Chairman: Thank you, Ms. Ekdahl.

Ms. Ekdahl: Oh, no further questions?

Madam Chairman: There are no further questions. Thank you for your presentation.

Ms. Ekdahl: Okay, thank you very much for hearing me at committee.

Madam Chairman: Mr. David Brown; Mr. Mike O'Shaughnessy. Do you have a prepared presentation and copies for the members of the committee?

Mr. Mike O'Shaughnessy (Private Citizen): No, I do not, Madam Chair. What I have is a copy of the position of a committee of City Council. I imagine you have it; it was referred back at council to committee and there was no council meeting since, so council has no official position on this bill, but I will be speaking from those notes which were recommended and approved by the Executive Policy Committee and using them as reference for my own purposes. I will leave the only copy I have when I am finished.

Madam Chairman: I appreciate that. Thank you, Councillor O'Shaughnessy. You may proceed.

Mr. O'Shaughnessy: Thank you very much, Madam Chair.

Madam Chairman: I should just clarify, are you appearing here as a private citizen, as my list indicates, or are you appearing in your official capacity as councillor?

Mr. O'Shaughnessy: Councillor Mike is here. For my first sentence I will be as chair of the city's Riverbank Management Committee; the rest I will

be as Mike O'Shaughnessy, Councillor, citizen, ne'er-do-well, whatever you choose.

Madam Chairman: Thank you.

Mr. O'Shaughnessy: That first sentence, if I may, Madam Chair, is to say that neither I nor the city's administration nor the Executive Policy Committee have listed any problems with the amendments to Part 15.1, the Waterways section. This has been looked at and agreed to by our administration, by EPC and by myself.

I also wish to say that the amendments regarding Part 15, Building Standards, also find favour with myself and the other councillors who voted on this part. There are some problems that I see with the amendments to Part 20. Now I realize that these amendments are three or four years in the making, and I must state that I am slightly disappointed in the quality of them, having taken so long and having been redrafted so many times over the years. I believe they started three governments ago.

I would like to go through by section, if I might. I suppose one of my most serious concerns is the elimination from the act of Land Use Variances. I am sorry I was not here during all of the other presenters; they might have been touched on. But I find that if land use variances are eliminated from the act, what will happen is there will be a plethora of spot zonings around the city which I feel will not do any good for the city in the long run. If a use is not specifically mentioned in a zoning category, although it may well fit in with what is in the area and be approved by the neighbourhood, by the local councillors, by council as a whole and by the applicant, rather than the quick variance procedure, what will happen is it will have to go through a complete rezoning procedure which involves our administrative co-ordinating group meeting, which is representatives of all city departments, putting a list of conditions together, hearings that go through four stages instead of the present two with the bylaw requiring three readings, a minimum of six months at the shortest.

That is something that I have a rather large problem with, and while some way of restricting use variances may well be desirable from your point of view, to eliminate them completely can only bring cost and delay, not better planning or zoning for the city of Winnipeg. I guess I did not quote the part there, that is Section 574.

I would next like to address Section 589(3), page 2. That is the part that would require first reading of a bylaw before rezonings go to hearing. There are two faults with that. One is delay once again, and the second being in the public's mind that if you give first reading to a bylaw before it goes to hearing, there will be an assumption in the mind of the public that council approves of this rezoning. I mean, you have made it into a bylaw. I believe this has been brought to your attention by our administration. I would hope you would see fit to change this part.

* (2210)

Also, the area, 607(3), 608(2) and 608(3), page 5 of the bill, about zoning tolerances. We are talking about houses built one-half to an inch and a half to three inches out of whack. I believe our people have talked to you about that. These minor variances, if they go through a longer procedure, it will be an absolute headache for the city, and we will be majoring in the minors forever.

I have a bit of a problem with Section 620(1)(f)(iii), page 8, subdivision cost-sharing conditions. When a developer or the city front ends the cost of a street or other improvement on the hopes that the city will reclaim for them a share of those costs as other people develop around them, right now and in your amendments no interest at all would be able to be charged, meaning if someone puts in a roadway, a trunk sewer or other thing far beyond their needs to service the area available, the city endeavours from the neighbouring lands when they develop to collect the money back for whoever front ended it. What you are going to have is a situation where 10 years later they are getting the value but they are paying 10-year-old fees, which is really—

Madam Chairman: Order, please.

Mr. O'Shaughnessy: Am I causing a problem?

Point of Order

Ms. Friesen: Madam Chair, I know that we are not going to have Hansard before we discuss this. I am really trying very hard to keep up paragraph by paragraph. I want to ask you, Madam Chairman, if you could ask the presenter to go back to 622(f), because I cannot find a 622(f) and then if you could go back over your comments, so that I can get them applied to the right section.

Madam Chairman: It is not a point of order. It is just a point of clarification. However, my understanding is—and if you just pause for one

moment, I will just check with the staff to clarify the record.

* * *

Mr. Ernst: Perhaps I can ask you, Mr. O'Shaughnessy, if you are referring to conditions on pages 68 and 69 of the bill.

Mr. O'Shaughnessy: I am talking to Section 620(2)(f)(iii). My only reference is page 8, not 622, but 620(2).

Mr. Ernst: Page 69 of the bill then.

Madam Chairman: Councillor O'Shaughnessy, please proceed. I believe the committee has requested that you repeat your comments relative to that section.

Mr. O'Shaughnessy: This section does not allow the city to charge interest on improvements which are front ended by either the city or a developer for services which will affect lands beyond those necessitating the original improvements such as a trunk sewer, such as a major roadway. When someone, whether it be the city or a private developer, wants to develop, they quite often have to put in services to service, and we put on conditions so that we are not having two parallel equal sewers. The first person to develop has to pay for a full oversized sewer to catch a whole area. They front end that and the city endeavours, it does not promise, but endeavours to recoup a portion of these costs when adjoining lands develop.

That might be 10 years down the road. Money may well have doubled or doubled twice in that time. What happens is that the people developing the adjacent lands then get the trunk services whether it be a roadway, sewer, oversized water mains, whatever, put in at a quarter of their cost of the day, reap a windfall. The other developer, private or public, has had their money out for 10 years and is now getting back those share of the dollars with no interest.

What we would like under this section is it would be allowed to charge interest but interest with a cap, because in a period of high inflation that interest could make developing the adjoining lands prohibitive. The cost of repayment could become prohibitive. We would like some form of interest with a cap. What that cap should be I would leave to your wisdom, but with no interest it can be a hardship on those first putting in the services.

Madam Chairman: Excuse me, please. The honourable minister wants to interject for clarification.

Mr. Ernst: With the indulgence of the committee, because of the highly technical nature of that question, I would like to respond if I could at this point while it is still fresh in everybody's mind as opposed to waiting until the end of the presentation. If that is agreeable with Councillor O'Shaughnessy and the members of the committee, I will do that.

Madam Chairman: Is that the will of the committee and the presenter? Please proceed, Mr. Minister.

Mr. O'Shaughnessy: Certainly.

Mr. Ernst: Councillor O'Shaughnessy, Section 620(2), the immediately following section to the one to which you referred indicates that interest can be utilized but to be calculated on the basis that is agreed upon between the developer and the City of Winnipeg, so that there is no arbitrary interest cost and there is no cap. There must be mutual agreement. The city and the developer will have to get an agreement before the matter will proceed.

We think that is reasonable in the process that the city and the developer will have to sit down and agree upon an interest rate. It may be, for instance, a floating interest rate dependent upon the times. Today with rapid rises and falls in interest rates it seems rather than fixing a particular interest rate it might be desirable to have a floating one at using the prime rate of interest plus or minus as the case may be and depending upon the circumstances. So I think we have addressed your concern in that regard. You may not have been aware of that.

Mr. O'Shaughnessy: Yes, and if any of you are aware of a gentleman by the name of Doug Kalcsics, I will kick his—when I get back to see him in the morning. If I might continue, Madam Chair.

Madam Chairman: Please proceed.

Mr. O'Shaughnessy: I am glad I now have a copy of the amendments before me. It might take longer, but I may just double check them all before I go on.

Section 622, page 70 I imagine, 622, Registration of Plan in Land Titles Office.

Mr. Ernst: We have agreed to go a year.

Mr. O'Shaughnessy: You have agreed? Okay, thank you very much.

Mr. Ernst: Madam Chairman, to save a lot of debate, the request was for a year by the city. We

have agreed to that, and we will be amending it accordingly.

Madam Chairman: Councillor O'Shaughnessy, please proceed.

Mr. O'Shaughnessy: Thank you. I will not give the reasons for that, then—slow it down no further. Under Section 644(1), 645(1) and 647, in throughout here comes for a provision of written argument, after a public hearing has been closed, to be forwarded to council. It is out? Coming from that side, I imagine it is. We are saving a lot of time here. I thank you very much.

I will try my luck here, 645(1) on council having to vote on its reasons for approving or rejecting a zoning matter. I had better make my case. It is hard enough to get this council or the "soon to be much improved" council of 15—I am coming back tomorrow—to agree on the fate of an application alone, never mind its reasons for it. After discussion of this matter, one side of—council may vote, including the mayor, 16 to nothing on turning down or approving a matter. If council then has to vote on its reasons, which must be attached as a whole, you might not get any reasons passed. Some people do not like it because of this, but that is just fine. Other people, the same thing going back.

* (2220)

What is going to happen, I feel, is that you are going to get one reason for every decision, that is, that it is contrary to the public interest. I find it a waste, unnecessary, and it could turn out to be a bit of a sham because that will be agreed upon by council. Everybody I think can agree, if they are against it, it is contrary to the public interest in turning something down, and that is about as far as it will get. I really feel that would be a waste of time, could lead to long, long arguments. We can put all the reasons down. I can see that, but for council having to agree as a whole on the reasons, as a majority on the reasons, I really feel that will bog things down and serve really no useful purpose.

I would like to move on, if I might, to Section 647(1). This seems to take away council's option to refer a matter back to committee of council for a second public hearing. To the best of my recollection, council has only done this once, but I see no particular rationale why council should not be able to do this when extraordinary circumstances warrant. It is nothing that has been abused by council since the act in this form came forward many years ago. It has only been used once. I think it was for the greater public good, and I do not see why this is being taken away from us. Perhaps an explanation is all that is necessary, but I can see no reason for it.

Mr. Ernst: A point of clarification, 647(1), that deals with the right to file an objection to a report.

Mr. O'Shaughnessy: It was page 15 of what we got originally. Here it is, Section 647(1), second public hearing planning board.

Mr. Ernst: I ask again, Madam Chairman, because the reference section provided by the delegation is not the correct one to deal with that issue, perhaps if you could tell us the issue, I can then locate the appropriate section.

Mr. O'Shaughnessy: I have notes before me. The notes I have before me, prepared by our administration, concur with what I had said, not with what I am hearing back. I will forgo it and hand a copy in when I am done. If anyone wants to look at it, they will see the notes prepared by the civic administration. I will just move on. Perhaps one of the other councillors in speaking later may have—I notice Councillor Gilroy, who will be speaking later, has a different document with the same highlight, so perhaps he can clarify it further for you.

Under Section 650 would be the Planning Appeal Board, and I hope I am on the right section there. I think that a Planning Appeal Board could be a great tool for council and a great help in the matter of rezonings. If the right board, with expertise, were appointed, I feel it would help council greatly in the matter of rezonings, in the step between community committee having heard it and it moving on to council.

Where I have a problem is with this board being the final decision on variance and conditional use appeals. I really think taking the final decision out of the hands of councillors and giving them to a panel of three appointed by council, which may be made up of experts in the field, may be made up of cronies of any given majority group on a given council, is very dangerous. I would strongly object to this, more than any other section. The rest has been minor. This I object to most strongly. Council must be responsible for the actions, and I would strongly oppose this board. While I am not objecting to its creation, I am strongly objecting to it having a final decision over anything.

The remaining point I have here, I am going to skip. It is so nitpicky, but just to spend my last moment to reiterate my objection to part of the amendment to 650. That is my strongest objection in the whole thing, and that is to councillors being able to slough off a final decision on anything to a self-appointed board. It could be used as a scapegoat.

I will just end it there. I think I have made myself clear on the matter. Thank you, Madam Chair. I would be pleased to answer any questions you may have.

Mr. Ernst: Councillor O'Shaughnessy, part of the problem at the present time is with the way the system works at City Hall with respect to variance and conditional use appeals—the relative lack of consistency in what council does. Because the board changes on a regular basis, week to week virtually, the consistency of consideration of appeals is very divergent.

Under the former Metro corporation act, there was in fact a committee called the board of adjustment. The board of adjustment dealt with zoning variances and appeals on a final basis. They heard it and what they decided was it. The history of that board of adjustment in the minds of most who were associated with it was in fact a very good system, much more consistent, much more even handed and much fairer in the overall scheme of things than the present system, where you get a wide divergence of opinion, both in the initial decision-making process, community committee to community committee, because of the opinions of the members of those community committees, and then also on the basis of an appeal.

In one community, you will have the appeal granted; in the next community, you will have it turned down. You will have it granted and turned down in the same community by different appeal boards. The concern is that they get some consistency and fairness across the city, that some other mechanism would be sought to deal with that. Can you comment now on your objections in that context?

Mr. O'Shaughnessy: Mr. Minister, I, too, was around for the last days of Metro, as a young reporter for the Free Press. What you may know by reputation, I saw a bit first-hand. They were even-handed, but whether they were fair and whether they were knowledgeable is up for debate, I feel.

Community committees, you will be treated differently. I see nothing wrong with you being treated differently in each community committee area, because the standards of that community may be different, their wants, their needs, their likes, their dislikes.

Where you should be treated equally, I feel, is in the appeal process. That appeal process could be changed very simply by having council appoint its committee annually rather than every three months, with a swing over on the appeal committee. If each community committee had one permanent member for the year—I do not know who would volunteer for this appeal committee. If they had that, I feel that would add an evenness to it, but you would still have the accountability of a publicly elected figure making the final decision.

I have nothing wrong with a board of citizens as long as they are an advisory board, perhaps a check and balance in that their report, if you are going to go against it, you are going to have to answer the questions that come along with changing that decision, but to give them final authority, I still feel, is worse than leaving it in the political process.

Mr. Carr: Thanks for your presentation, councillor.

Let us just talk through the options that are available to all of us for this process. Let me start by asking you some questions.

Approximately how much of your time, as a member of a community committee, is spent dealing with routine conditional use and variance applications?

Mr. O'Shaughnessy: Approximately, directly, two and a half hours every three weeks is the average length of our zoning hearing time, which runs from 16 to 30 applications, although I must admit we are by far the fastest at it of any community committee within the city.

Indirectly, in dealing with phone calls from residents who have applied for a building permit and found they needed a variance, "What do I do?" and "Am I going to get it before I go spending my money?" and the usual stuff that goes along with it—this is before they have applied, I reiterate—another three to four hours a month. I do not find it takes very much of my time at all. I sit on the appeal committee, city-wide, three months out of the year, which means normally three meetings.

Those meetings last an average of five hours, so that is 15 hours a year. I do not find that takes a lot of my time.

* (2230)

Mr. Carr: What percentage of conditional use and variance applications are contested or controversial, and how many are routine?

Mr. O'Shaughnessy: Madam Chair, in our community committee, I would say 19 out of 20 are routine.

Mr. Carr: Well, that is very revealing.

Would it not, therefore, make sense that the first hearing of those 19 be done by either staff or by a citizens' committee and that the appeal for the controversial ones be heard by the elected people on council whose decision would be final?

Mr. O'Shaughnessy: Did you read my letter? Yes—actually, I did not write him, but yes, I have thought that variances, conditional uses, in the first place, could go to the administration. They would be posted nonetheless, but if the administration, the applicant and the neighbours agreed, they could issue the variance or conditional use on the spot.

Should any of the three object—and we would put a limit; no one from Charleswood could come and object to one of these minor variances out in West Kildonan, but if anyone within five blocks of the affected area, who would get a letter or whatever plus the posting, agreed, our applicant agreed and our administration agreed, there is no need to go further. I would suggest that on variances as something that could cover 19 out of 20. On the one, the community committee then would be the final appeal, because it would indeed be an appeal.

I find nothing wrong with local judgment in that case, even though the appeal might be to a rather parochial board, being very local. They would have a lot of knowledge, and I would not object to that.

Ms. Friesen: If the bill were to persist with having a planning appeal board, would you have any suggestions on how long it should be appointed for and who should appoint it? I think, in your introductory remarks, you made some question about the closeness between City Council and this appointed board.

Mr. O'Shaughnessy: No disrespect intended to any member of the Legislature, but the appointment would have to be by some political body. Quite frankly, I think City Council is just as capable of appointing those people as members of the Legislature, as any elected body would be.

I would suggest council, not that it is perfect, but at least City Council would be accountable in some way at this point.

Mr. Santos: In principle, I agree with the councillor that the political level of discretion should never be replaced by the appointed level who is not accountable. In this particular case, the planning board, if it is merely appointees, they have no political responsibility.

The argument about consistency of decision can perhaps be satisfied by a member of the council being appointed there for a longer period of time, maybe for the duration of the council, is that a good solution?

Mr. O'Shaughnessy: I do not know that any councillor could live through it, not for a four-year period -(interjection)- I am coming back tomorrow.

Madam Chairman: Are there further questions of Councillor O'Shaughnessy? If not, I would like to thank you for your presentation and your input.

Mr. O'Shaughnessy: Thank you very much, Madam Chair. I would just like to leave a copy of these notes that are at least half correct.

Madam Chairman: Thank you. I appreciate that.

Ms. Friesen: Madam Chair, would we be getting a copy of these?

Madam Chairman: Yes, all committee members will receive a copy of that.

Councillor Gilroy, please proceed. Welcome.

Mr. Ernie Gilroy (Councillor, Daniel McIntyre Ward, City of Winnipeg): Madam Chairperson, I am most pleased to be here.

I would like to begin by making a couple of opening comments. It has been an interesting experience being an objective observer to the political process here this evening, and a couple of comments that were made by earlier delegations give rise to some comments from me.

One of the earlier delegations mentioned the fact that no councillor had ever mentioned to him that they found the conditional use and variance process a waste of time. I am here to tell you that I find the variance and conditional use process a waste of time. Quite frankly, what it does is it keeps members of council bogged down in the minutiae and the day-to-day operations of the corporation

that could well be handled by others, and it keeps us from having the time to dedicate to the big issues like budget and Plan Winnipeg reviews and things like that that I think the politicians ought to be doing. So I would like to put that on the record.

Two of the other delegations made reference to the business tax and the formula that was used by the City of Winnipeg in terms of determining the business tax this year. I am not going to give a great dissertation on whether the formula was good or bad. I just would like to state for the record my position is that at least the right people made the decision. Council is ultimately responsible for delivering the business tax, and we are the ones who are going to have to face the electorate and answer for those decisions. I think those decisions rightly belong with the City of Winnipeg, so I would just like to make those opening comments.

Having said that then, I would go into the presentation which I had originally intended to make, and I would like to begin by saying, quite frankly, I think that Bill 35 is a pretty good bill. I think a lot of good work has gone into this project, and I would like to compliment the people who did the work.

I would then like to follow up on a couple of comments that Councillor Murray has made and clarify the role that I played in the consultation process which was referred to in an exchange between the minister and Councillor Murray. Particularly, I want to refer to the participation of the official delegation and the administration in the consultation process. It is accurate to say that members of the administration have been discussing since February of 1989 basic issues related to Bill 35. They have not discussed Bill 35 itself over that period of time. There was consultation, what do you think about this issue, what do you think about that issue. That does not take the place of giving either the administration or the politicians an adequate opportunity to look at the final product and to pass judgment on the final product.

I have to make reference to the comments made by the minister with respect to the briefing that I received on March 28. At an official delegation meeting, which I believe took place on March 4, the minister informed the city's official delegation that myself and some members of my staff would in fact be briefed on the contents of what was going to be in the bill. It was made very clear at that official delegation meeting, and I have to put this into the record, that that briefing would be in confidence.

* (2240)

When we did, myself and several members of our staff, meet with the staff of the department—which I have to put on the record again, we did appreciate; we thought it was a good briefing—we were taken into the office; we were presented with briefing notes; we were reminded again that this was a briefing which was in confidence; we discussed the elements that were going to be included in Bill 35; we were asked to return the notes, which we did; we were once again, as we left, reminded that this meeting was in confidence.

I have to tell you, Madam Chairperson and members of the committee, when I make a commitment that I will hear information or that somebody wants to give me some information in confidence, I honour that confidence, and that is what I did in the case of the briefing that I received.

So I did not discuss with any of my colleagues on council or with anybody else the elements of that briefing, so I was not in the position to have any councillor prepared for what they were about to receive when they received it on or about the 15th of May. I have to make that point abundantly clear.

In terms of my own participation in this process, I was appointed to chair a committee on June 5 to bring a bunch of councillors together to see if we could develop a response to Bill 35. That committee was authorized by Executive Policy Committee on June 5. It met on June 5, and it reported on June 7. So I guess I can say that I did my job as expeditiously as I possibly could.

We then subsequently met with the Urban Affairs committee of cabinet on, I believe the date is, June 18, which is correct. We explained very clearly to the Urban Affairs committee of cabinet that this was a position of Executive Policy Committee and not the position of council. We subsequently took the recommendations to council, and council laid the matter over for three weeks for the other members of council to have an opportunity to deliberate on these matters.

In fact, council has met and discussed this issue once and laid the matter over for a three-week period. I do not think that asking for eight weeks is an undue length of time to ask council to have an opportunity to consider such a complex and important document. We have to remember that

the province has taken three, four, however many years it is, to develop this legislation and to refine it. Those are the people who are making the rules. The people in the city who have to live by the rules and make those rules work have been given less than eight weeks to respond to them.

Having said all of that, I am here speaking, by the way, on my own behalf as the councillor for Daniel McIntyre Ward and not on behalf of anybody else at City Council. I do have some observations to make. Many of them have been made by other councillors, so I am not going to give you a lengthy explanation because I concur with some of the explanations that have been given.

I have had an opportunity very briefly to look at some of the amendments that were tabled, and I support some of those amendments. I join with the other members of council in expressing my concern about Section 574 which is the lack of an opportunity to use the variance process for use changes. I think the motivation probably behind this provision is a good one, because there has been abuse of the use provisions for variance, but I think it is possible that you could be creating more problems than you are solving. Some of the other councillors have alluded to that, and if there is any explanation needed, I would be happy to give one.

Again, several councillors have made the comments with respect to the first reading before a rezoning goes forward. I join those councillors, I support the position that they have taken, and I concur with the amendment that has been tabled before your committee. I think it is a good one. With respect to development agreement parameters, Item 4, Section 617, page—

Madam Chairman: Order, please.

Point of Order

Mr. Carr: Just a point of clarification for the presenter, the amendments have not been tabled with the committee. The Minister of Urban Affairs (Mr. Ernst) has given copies of the amendment to the opposition critics, and I took the liberty of passing those on to the presenter, but the amendments are not known perhaps to other members of the committee, and they certainly have not been tabled.

I make no apologies for having shared the amendments with the presenter. I think it is healthy for the process, but they have not been officially tabled with this committee or with the Legislature.

Madam Chairman: Thank you for that point of order, Mr. Carr.

* * *

Mr. Gilroy: Madam Chairperson, I am learning as we go along here. This is a new procedure for me. -(interjection)- Yes, the comment by Mr. Ducharme is right on. It is one that should be changed. It is not a very workable process in my view.

Anyway, if I could just finish, I have a few more points here to make dealing with Section 617. There is a provision here that says the development agreement parameters should be included in the bylaw, and I think that is a good recommendation, and I just would like to support it. The other recommendation dealt with the extension of time limits for the registration of plans of subdivision. Again, I think the amendment that will be tabled at some stage in your deliberations is a good one, and I would support it.

I join with the other members of council who have expressed concern about written representations after public representation has been closed. I think that causes more problems than it solves. You have the situation then where some people have had the representation closed on them, and then at the very last minute some of the more astute lobbyists could present their case in writing, and I think that could cause more problems than it solves. I understand there is also an amendment going to be brought forward which again I concur with.

The planning appeal board citizen members is one of the recommendations that I concur with the members of council who have spoken and with one of the previous delegations. I guess I feel that those who are elected to public office to make decisions make those decisions and they do so knowing full well that they are accountable to the electorate once every three years or four years, whatever your decision comes tomorrow on the other act. So I think that those decisions ought to ultimately be made by elected officials and not by private citizens.

Last but not least, I join with the other councillors in expressing my concerns about the written notices for minor tolerances. There are an awful lot of them that we do in a year, and I understand there is an amendment that is going to withdraw that provision or modify that provision, and I think that is a good idea. So I hope I have not been too lengthy. I think

a lot of good work has been done on this bill. I just think you ought to put a provision in for a little more time for consultation with the people who have to make it work. That is my presentation, Madam Chairperson.

Madam Chairman: Thank you, Councillor Gilroy. I am sure there will be a number of questions.

Mr. Carr: Thank you, Councillor Gilroy, for your good presentation. So you do not like conditional use and variance applications much.

Mr. Gilroy: No, I think the majority of them—I am speaking from my own community committee experience—in our community committee, the vast majority of them are handled very well by the administration. The administration makes a recommendation that says that this is a good idea or this is a bad idea. We almost always follow the administration's advice, and I think a process which would allow the administration to make those decisions subject to objection would be a better process. If there is an objection, then the politicians would deal with it.

Mr. Carr: Do you then see any role at all for the proposed appeal board?

Mr. Gilroy: What I would recommend in terms of the appeal board is that I think there is room for appeal, but I think the appeal process ought to be determined by council as opposed to being determined by the Legislature. We are the ones who have to live with whatever decisions ultimately get made. I would like to see the act amended so that it would enable council—if council decided that an independent appeal board was a good idea, that council would institute an independent appeal board; but if council felt that those decisions ought to made by the politicians, then they would rest with the politicians. I personally believe that it is a tough job, but that is why they pay us the big bucks.

* (2250)

Mr. Santos: Of all the levels of government, perhaps the city level of government is the level of government where there is a close interlink between policy and administration, and one cannot fulfill one's function at the policy level unless he immerses himself in the details of administration. I am not surprised why the former councillor who presented earlier was not aware of some of the results of consultation when even the official delegation of council is held to be in confidence of whatever is consulted with the province. Can that truly be an official delegation of council if it will not inform the rest of the council?

Mr. Gilroy: In fairness, I have to explain, the official delegation was not given information in confidence. I and some members of my administration were given information in confidence which I appreciated. I understand exactly the problem that the government had because they, I do not think under the rules that you operate here, can release a bill to people outside the House before they release it to the people inside the House. The only point that I was making is you cannot consider that to be consultation with the city, because I am one member of council; and, while it is true that I am the chairman of the committee that is responsible for planning and community services, having briefed me in confidence cannot be construed as having briefed council. That was the point that I was making, Madam Chairperson.

Mr. Santos: Maybe it is because of lack of familiarity with the structure of the city government, but the position that was reported on June 7, the councillor said, was the position of the Executive Policy Committee and not the position of council. What is the distinction? Is it not the case that the Executive Policy Committee is some kind of administrative arm of City of Winnipeg government?

Mr. Gilroy: No, the normal process is that an official delegation comes and meets with the Urban Affairs Committee of cabinet after they have had the position approved by council. We meet with the Urban Affairs Committee of cabinet to discuss official council positions. The point that I was making is that, because of the time line here, Executive Policy Committee had approved those recommendations, but we had not had time to go through the cycle to go to a council meeting and that they had never been approved by council. It is not saying that council would not have or may not have amended them or approved them, but there had not been the opportunity for council to express an opinion on them by the time we met with the Urban Affairs Committee of cabinet.

Mr. Santos: On the relationship and interlink between Executive Policy Committee and City Council, who is ultimately accountable to whom? Which one makes the ultimate decision?

Mr. Gilroy: Council, ultimately, is responsible for every decision and is the ultimate authority.

Mr. Santos: Thank you.

Ms. Friesen: I just wanted to follow up something on Section 574 that you began with. Could you give me an idea of what kind of changes you would like to see there? You are opposed to what exists now. What would you like to see? Do you want that whole section eliminated? Do you want something replaced in the bill? That is Planning and Development, the variance and the use of variance.

Mr. Gilroy: Yes, I think the position that we have presented—and I am reading from my notes—perhaps council should have the option to itself remedy the existing problems by requiring for use variances the same notice and fees as conditional use applications. That would mean that it might be more expensive, and there has to be posting and the public has input. I guess what I see happening is situations where you are forced to rezone a property to allow a use that you think might be compatible for the neighbourhood, but the rezoning would not be compatible for the neighbourhood.

This city is full of old neighbourhood grocery stores which have existing nonconforming rights. They are commercial occupancies, but they are in residentially-zoned properties. If you wanted to, say, expand one of those grocery stores, today you can do it by way of variance. You may require a rezoning under the proposed legislation, and we are not sure we want to rezone. We might think it is appropriate for the person to upgrade that grocery store, but eventually we want that piece of property to become a residential property. So we do not want to rezone the land. Then you open it up to any kind of commercial occupancy, and that creates more hazards, I think, than it solves.

Ms. Friesen: I think one of Councillor O'Shaughnessy's problems with this was that the new procedures would require six months as well. Is that your concern? Yours seems to be more with neighbourhood usage? I think he did mention that in addition.

Mr. Gilroy: I think the time constraints could be difficult for the public at large, because rezoning is a much lengthier process than the variance process. I am thinking in terms of controlling development in a neighbourhood. While I think this recommendation is well motivated, I think it might cause more problems than it solves.

Ms. Friesen: Thanks.

Madam Chairman: Thank you. Are there further questions of Councillor Gilroy?

Mr. Ernst: Councillor Gilroy, I understand that council took a position today on Bill 68, a number of members of council. Is that correct?

Mr. Gilroy: I have to confess to you, Mr. Minister, that I was at Executive Policy Committee when council was debating. I understand they took a position, but I am not sure what it was.

Mr. Ernst: Madam Chair, we distributed Bill 68 on about June 17 or 18. Council was able to take a position today based on a bill that was distributed a month after Bill 35.

An Honourable Member: Not quite as complicated.

Mr. Ernst: Not quite as complicated, I understand, but considerably more time as well.

Mr. Gilroy: I think the answer is correct. First of all, it is not as complicated, and while the bill may have been distributed, the issues that are involved in that bill have been much discussed through at least the last provincial election and since the last provincial election. So there is not much in there that is new and technical as opposed to some of the very technical implications of Bill 35.

I will not be here to speak tomorrow to Bill 68, but I am among those who think that 15 is a more reasonable number than 29 and I look forward to streamlining the decision-making process. I look forward to the day when council deals with the major decisions and leaves the minutiae to the administration.

Mr. Chairman: Thank you, Councillor Gilroy.

Mr. Gilroy: That way, I will not have to come back tomorrow. Thank you, Madam Chairperson.

Mr. Chairman: Ms. Jenny Hillard. Do you have copies—

Ms. Jenny Hillard (Manitoba Environmental Council): Yes, they have been handed out.

Mr. Chairman: Thank you. Please proceed.

Ms. Hillard: Good evening. My name is Jenny Hillard. I am the Chair of the Winnipeg Regional Committee of the Manitoba Environmental Council. I thank you very much for the opportunity to speak this evening.

The Manitoba Environmental Council has some serious concerns about Bill 35. We shall identify those which seem most important to us from an

environmental standpoint at this time. We have not had a chance to analyze the legislation in the detail that we would have liked and are disturbed that the only public hearings on such a far-reaching legislation can be held with only one day's notice.

Our principal concerns deal with Parts 15.1, Waterways, and 20, Planning and Development, and so we should not comment on 15, Building Standards. The first point of concern is that the Waterways section has been put in as sort of an adjunct to Part 15, Building Standards, rather than as a new part or as an adjunct, say, to Planning and Development or Parks and Recreations. This seems to symbolize the attitude that permeates the bill, that is, that waterways and floodways are places for building, albeit with some restrictions.

* (2300)

Without a doubt, the worst aspect of this bill is that it eliminates the protection for the waterways of the city that was afforded by subsection 624.1 of the existing City of Winnipeg Act, which prohibits the construction of any structure other than highways and utilities that would span a watercourse in the city. We all know that in the many years before 1989, during which this was a City Council responsibility, that the influence of developers on those councils was such that they never provided this fundamental protection for what may be the city's most important natural features. Throwing the onus for this back to the city is clearly a reactionary move, inappropriate for a government committed to environmental protection. As with the infamous Bill 38, it seems to be a case of responding to an individual legal challenge by fundamentally weakening the environmental components of major legislation.

We strongly recommend that a section with substantially the same wording as the existing 624.1 be incorporated into this amendment, perhaps as a section 621.1 or 621(3) and that Section 494.1(2) be made subject to this.

Section 494.1(1) is very weak. We would suggest something like the waterways are hereby designated as regulated areas and council may, by bylaw, designate any adjacent lands as regulated areas, with the corresponding change in the definition of regulated areas.

Section 494.1(2). Change "may" to "shall." The (b)(vi) is a bit odd. Surely they should also be regulating or prohibiting such other activity or thing as council considers might interfere with or impede drainage or waterflow or damage the stability of banks. Using affected drainage or bank stability would cover both this and the (vi) in the amendment.

Section 494.1(4) is one of those loopholes that make citizens worry. Add unanimous before opinion to avoid having real amendments bulldozed through council as minor.

We have some other concerns about the repeal of The Rivers and Streams Act and this replacement, but have not had time to do a thorough analysis of the changes and their consequences. We hope that the members of the Legislature, who will be making these far-reaching decisions, will have done such an analysis. One consequence which is disturbing to us is the elimination of the Rivers and Streams Authority and the giving of virtual omnipotence concerning waterway development to the designated employee, who would have to be absolutely incorruptible for the section to work. It appears that there would be no opportunity for public review or appeal of his or her decisions and that only a person directly affected could appeal Section 494.6, and then, not to a waterways protection committee nor to an environment committee, but to the designated committee to review building standards.

With respect to Part 20 Planning and Development, we have several concerns, although overall it seems to be an improvement over the old Part 20. The wording has been simplified in many cases without appearing to change the meaning. We have not had time to have all these changes reviewed by a lawyer. For example, in Section 576(2), does (a) the sustainable use of land and other resources include a key part of the corresponding section of the existing act, 577(a) including the principal purposes for which the land is used?

Subsection (h) of the same section of this bill represents a serious weakening of the corresponding clauses (e) and (f) of the existing act. We would recommend restoration of the old wording with the addition of waterways, agricultural lands and sensitive areas.

We are concerned at the omission of subsection 579(2) of the act, consultation of community committees with respect to Plan Winnipeg, and the omission of details as in the old subsections 579(5) to 579(13) concerning public hearings on this plan,

opportunity for public inspection of material, records of meetings, et cetera.

The new 579(4) seems to allow council to amend the plan to include items not discussed at public hearings, which was effectively prohibited by the old 579(13).

There are many other cases where opportunity for public input seems to be lacking or inadequate, as for example, in 581(1)(b), amendment by the minister; 582(2), amendments by Order-in-Council; 592, order to amend by Municipal Board; 608(3), variance hearings, applicant only may appear and need be notified; 619(2), subdivision plans as with variance hearings; 623(4), consent hearings; also 623(5), 628(1) and 628(2), amendments to subdivision plans; 629(2), procedure bylaws; 632, minor bylaw amendments; and 671.1, exemption by cabinet. The last could be dealt with by including all such exemptions in 654(1). These should all be amended, some could be deleted, to eliminate the possibility that changes could be slipped through without a chance for public scrutiny and input.

Also, with respect to public input, 608(1) and 608(2) should both be prefaced subject to 608(3). The "may" in 629(1) should be changed to "shall" for clauses (a) through (j), and the phrase "and may include" added before (k). In 633(1) and 636, the wording should be changed to make it clear that a fee would not be charged to allow the person to inspect the material involved. The posting of notices is a good idea, especially as a supplement to newspaper advertising, but where it is to replace it as in 633(4), there should be some limit on the size of the unit of land involved or a definition of that term. Section 634 should be restricted to emergency situations, not just where it is impractical. If it is important enough to involve the minister, it is important enough to provide public notice. In the case of major plan bylaws, 21 days notice is not enough for volunteer groups to provide well-prepared input—90 days would be appropriate for the first notice with a second one 20 days before the hearing. Section 635(2) is frighteningly inadequate with the potential for serious abuse.

The Planning Appeal Board seems to be a good idea but only if its members can be clearly seen as independents, not as political appointees. The terms of members should be specified and some criteria or qualifications identified. Making them joint appointments of the council and the minister or requiring unanimous support of council for appointment would help give them public credibility.

The other major concern of our council is with respect to the lack of requirements for environmental impact assessment in The City of Winnipeg Act. As a minimum, we urge that Section 595(1) be amended to read: "Council shall require an assessment of the environmental impact of all proposed public works, developments, and development bylaws or amendments thereto and may require such assessments for variances, conditional use applications and other bylaws or amendments."

Subsection 595(2) should be revised to read

"Where Council requires an environmental impact assessment, Council

a) shall be the sole determining authority of the adequacy of the assessment or any part of it unless the development is subject to licensing under The Environment Act, and

b) may establish such procedures as it considers necessary which shall include public hearings where there is evident public concern or where there are likely to be serious environmental impacts."

Section 589(2) should have clause (v) renumbered as (w) and a new (v) inserted: "environmental impact assessments and mitigation plans." A new subclause should be added to 611: "(iv) does not have an unacceptable environmental impact."

The present section re Environmental Impact Review is much worse than that which the act had before 1977, which was already weak. We have an attachment which did not actually get stapled on. I hope you have been passed a copy of it, which came from the MEC Annual Report from 1976. The EIA process must be integrated into the city's decision making if we are ever to get beyond the planning on the basis of short-term profits and back-room deals. By incorporating this requirement into the act, the province can help bring Winnipeg into the era of sustainable development.

Thank you very much.

Madam Chairman: Thank you, Ms. Hillard. Are there questions of the committee?

Ms. Friesen: Thank you for a very detailed presentation. It is going to take some time to go through each of those, so I am sorry I am not going

to be able to ask questions on as much as I would like.

I am a bit curious. On page 3, you are talking about Section 633(4). The posting of notices is a good idea, especially as a supplement to newspaper advertising. Where it is to replace it, as in 633(4), there should be some limit on the size of the unit of land involved or a definition of that term. Could you expand on that a little while I am reading 633(4) at the same time?

* (2310)

Ms. Hillard: I must admit it came out of some light-hearted quibble after spending six hours on Sunday going through this bill, that the idea of one little notice pinned on the Perimeter which would refer to the entire city of Winnipeg, which would not be precluded by the thing as it is written now. It just has to be on a major highway adjacent to the land, if I remember correctly the wording of the amendment. We felt it should be—you should not be able to just put one sign up that could cover the whole of the city of Winnipeg or a very large area.

Madam Chairman: Are there further questions of the committee? Thank you for your presentation, Ms. Hillard.

Councillor Greg Selinger. Do you have copies of your presentation for the committee, Councillor Selinger?

Mr. Greg Selinger (Councillor, Tache Ward, City of Winnipeg): No, I do not. I just had notice that this was happening. I just found out about it today.

Madam Chairman: Please proceed.

Mr. Selinger: I am appearing as a councillor, so the views I am expressing are my own.

In view of the hour, I think the way I am going to approach this is not to go through it clause by clause, but I am going to come at it conceptually. I have been listening carefully to the debate tonight, centering around the appeal procedure and some of the other more permissive aspects of the legislation.

It seems to me that the two concepts that are clashing with each other here, and one is being substituted for the other, is the concept of setting standards for procedural fairness with respect to things like appeals on variance and conditional uses for items such as public hearings, for items such as environmental impact studies.

In essence, what this bill is doing is going the permissive route of delegating authority to the city on how it conducts itself in terms of these procedures. The political principle that seems to be underlying, when I listen to the various members of the committee and presenters, is we will give you this authority to do what you may wish to do, because you will have the political accountability for what you then do.

I would like to say I think we have to stand back a second and take a look at the role of the different levels of government here. Under the Constitution, municipalities are the creations of provincial governments. Provincial governments, as we all know, are enshrined in the British North America Act, the BNA Act. The question that comes to mind is, what is the role of the provincial government vis-a-vis the city? What role should they be playing in creating the city?

I would submit that the role of the provincial government is to set minimum standards for how the city should conduct its affairs. Those minimum standards should go to the underlying principles of how we want our society to function and our political society in particular. Fundamental to how we want to do our business in this society is that we want the standards of fairness. When I say fairness, I am putting my primary emphasis here on procedural fairness, due process, the fundamental principles of justice or what some people have called natural justice.

I think it is the responsibility of the provincial government to set out standards of natural justice which should apply to the decision-making procedures and policy-making procedures of the City of Winnipeg. I think what the province has done in delegating so many of these authorities to the city is it has abdicated that responsibility to set those minimum standards for fairness. That causes me a great deal of concern. I think that gives me a different tilt on this bill than maybe perhaps many of the other presenters here tonight.

Yes, we should be politically accountable and accountable to the electorate for what we do, but we should be doing it in a set of standards and procedures that have been put in place by the province given their experience on how business should be done at their level and given their interpretation of how we should be operating within the spirit of the Canadian Constitution and, in particular, the Charter of Rights and Freedoms.

I think if you put that kind of a context on it we might want to take a different approach to how we approach this bill. I would say that it is not reasonable to trade off standards of fairness for the principle of political accountability. They are both principles. They should have their own merits. One should not be substituted for the other. That is what I see going on here.

For example, when you give us the ability to do environmental impact studies under terms and conditions as we set, I do not think that is good enough. I think you should give us some standards to work by on doing environmental impact studies. You should tell us when we should be doing those environmental impact studies, on what kinds of projects.

I think the criterion that might be applicable is one that is already enshrined in the legislation, that is, all matters which have a substantial adverse effect on the community. Substantial adverse effect is the terminology which has been used over the years with respect to variance and conditional use appeals. I submit that criterion would be very applicable as well to things such as environmental impact studies and rezonings.

If we look at that criterion and apply that, any project which has a substantial adverse effect on the community should have minimum standards of procedural fairness which apply to it. When I talk about that, when I see in your bill the concepts that you have laid out for doing appeals or for doing public hearings and for doing conditions for subdivisions, you set out many important criteria but you make them entirely permissive, the operative word being "may."

I would suggest that you may wish to strengthen that "may" to in some cases "shall" have 14 days notice, "shall" require that postings be up in the neighbourhood with yellow placards and not be an optional feature of the way we do our business—

Madam Chairman: Order, please. Ms. Friesen, on a point of order.

Ms. Friesen: No, it is not a point of order, it is a point of clarification.

I wonder for the record if we could be specific on the sections you are talking about.

Mr. Sellnger: I am trying to find them.

Ms. Friesen: Okay.

Mr. Sellnger: I am referring for example to Section 629(1), page 72, on content of a bylaw and procedure. This section is entirely permissive. I would think that the province would want us to comply with some minimum standards.

I think it is totally reasonable that you allow the city to exceed those standards and to go farther and do more if they wish. You would want to have a base line. The example I gave was—and it is one that just jumps out at me. Currently we have provisions where we have to put up the yellow signs for rezonings and variance and conditional use hearings. You have now made that permissive.

That causes me some concern, because the major way that community people relate to these kinds of changes in land use are by seeing the yellow signs or the orange signs, whichever colour you may wish to make them. They relate to it by seeing that go up in the neighbourhood. They may or may not see it in the paper. Some people do not read the paper that frequently and they do not read those sections which look technical and legal. They see the yellow signs if they jump up by their next-door house, and they respond to them. So they need that kind of protection.

I am taking a different tilt. I am saying the province has a responsibility constitutionally to set the kind of standards by which they would want the city to follow. I would also apply that to the environmental impact clause. I am not sure what clause that is, I do not have it at my fingertips.

The other thing that I noticed that was absent, and I concur with Councillor Gilroy there is a lot of good thought in here—before I get to this other point, I just want to say I read through these 28 amendments while I was sitting in the audience and most of them seem to me to be quite reasonable. I think they respect the spirit of the informal discussions we had at the official delegation meeting, so I do not have a problem with any of these that jumps out at me in terms of the specific amendments package that I received as I walked in the door tonight.

The other idea that I wanted to put forward to you though, on a conceptional level, was that in The City of Winnipeg Act we currently have provisions for what we call business improvement zones, and there is an interesting mechanism there which I think empowers the business community to get organized. That is, that if 10 percent of a business community wishes to set up a business

improvement zone, they can do that. I would like you to take that same concept of giving some threshold by which the community can respond to set up secondary plans in community development bylaws.

If 10 percent of a community wished to have a community development plan or secondary plan put in place, they could initiate that process and get the co-operation of the city to do that, and that would give people in neighbourhoods some opportunity to take some leadership in developing their vision of how the neighbourhood should be further improved.

* (2320)

Now, of course, like a business improvement bylaw, it still has to be ratified and approved by City Council, but the concept which I think has been very successful, business improvement zones, I think might usefully be applied to secondary plans in community development plans.

Those are all the comments I wanted to make because of the hour, because of so many of the other issues that have been canvassed by other presenters tonight. I wanted to introduce some new thought to the process.

Mr. Carr: Thank you, councillor, for giving us another tilt, as you put it. I am interested in your last comment, to relate it to your first comment about the role of the province to set minimum standards. In the old City of Winnipeg Act, council was mandated as a requirement—shall produce community area plans—and never did. So in spite of the fact that the province had mandated and required the city to establish what we now call secondary plans, council never did that, and now you are suggesting that if 10 percent of the residents want a secondary plan then council, presumably, should be obliged to respond to the 10 percent of its electorate that wants the plan.

How do you relate these two ideas that council was mandated and required to produce plans—never did—could have been actionable in court—never was. Now you are suggesting that if 10 percent of the residents want a plan, council should be obliged to produce one.

Mr. Sellnger: I am not sure that the legislation was as you interpret it, and I do not have it in front of me. Maybe we should go to it to verify it, but I understood the community plans were permissive again. There was a "may" clause there, so we should check that.

Let us assume for the minute that they were obligatory and they were not done. That tells you that the legislation was defective, there was no compliance mechanism. That would be my response. If something is obligatory, there has to be some mechanism for compliance but my reading of it, as I recall, was that when it came to community plans they were permissive. Maybe we can get an interpretation on that from the folks who know the legislation.

Mr. Carr: I am quite sure that the wording is "shall" but maybe we could just take 30 seconds to have staff confirm that.

Mr. Ernst: If I can put my two bits' worth in here, at some point or other, whether it was at the last minute or not, we are checking to see, but at some point or other it was a requirement for those plans.

Madam Chairman: For the record, the minister will read the previous wording.

Mr. Ernst: The previous wording, Madam Chair, was "589(1) The Council shall cause to be prepared and approved under this party community plan for each community."

Mr. Carr: Therefore it was a requirement under the act and it was never acted upon by succeeding councils. I am interested in the notion of clients, what would you have the Legislature do in a case where a community action plan was mandated and not followed through by council?

Mr. Sellnger: Well, there are a number of mechanisms. One, they could have a report mechanism that they have to produce an annual report on the progress they have made in doing this and be accountable for that. If you want to go back to the principle of political accountability, once you require something then you have to have some mechanism to ensure that it is done, and then the normal legislative procedure is some sort of penalties if it is not done. In any kind of bylaw if you want to assure compliance you have some mechanism whereby if it is not complied with, there is a remedy or a penalty and the imagination can race on what those could be, but it would be something that would give an incentive for the council to follow through on these things.

Mr. Carr: Can he give us an example of either incentive or penalty that you think would be appropriately imposed by the Legislature on the municipalities?

Mr. Sellnger: Certain monies might be withheld or earmarked if these plans were not followed through with, would be one obvious thing. Resources are obviously of critical importance to City Council.

Mr. Carr: Councillor, I am interested in your view of the appeal board that is proposed in the act. Are you in favour of such a board? What do you think would be its role, or what ought to be its role? My reading of the bill, as proposed, is that council is permitted to travel one of two routes prescribed by the act and one of those routes is to use the appeal board as a final word on conditional use and variance applications. What is your view on that?

Mr. Sellnger: Well, I need a little help in understanding that section. I am not clear on whether that section gives final word to the appeal board. It does in your view?

Mr. Carr: I suppose the minister should be answering this question. My understanding is that for conditional use and variance applications the final word goes to the appeal board. Is that correct?

Mr. Sellnger: My feeling is that an appeal mechanism, which is independent and impartial, is a good step. I tend to support that. I think we all come out of our own experience on these things but I tended to agree with Mr. Ducharme's comments that there is a lot of log rolling and arm twisting that goes on at variance and conditional use committee. He acknowledges that happened during his time on council and my experience is that practice continues. I think that compromises the concept of an appeal being impartial and, therefore, I think some independent arm's-length mechanism to increase the likelihood of impartiality reigning in the decision-making process is a healthy and good idea. I am very concerned that once again we do not substitute the principle of political accountability for fairness in this area.

Mr. Carr: So in this case then, you would opt for fairness if that was a competing principle, against political accountability?

Mr. Sellnger: Yes.

Mr. Carr: It does not disturb you or give you any cause for alarm that an appointed body would have the power, not in the first instance, to make a recommendation to the political authority, but would in fact be an appeal against the political authority, and where there was a difference of view it would be the appointed, rather than the elected, body that would prevail?

Mr. Sellnger: I understand the question you are putting and I think it really does boil down to political accountability versus some notion of how we construct bodies that maximize fairness and impartiality, and in the case of an appeal, not a policy decision but an appeal, I think impartiality should be paramount.

Mr. Carr: Could the same be said of zoning questions and subdivisions?

Mr. Sellnger: The more you move away from a specific piece of land use to a broader subdivision, which is more policy oriented, the more the broader items should stay in the political arena because it is policy oriented; and the more specific it is, it should stay in the area of fairness and impartiality because it affects the specific rights of particular individuals. Do you understand the continuum I am trying to construct?

Mr. Carr: I do, yes. Would your measurement of fairness be satisfied by an administration decision, in the first instance, for conditional use and variance applications? We have heard evidence tonight from other councillors that the vast majority—one councillor said 19 out of 20—are not controversial and not contested. In those cases, is there a requirement that either a citizen's board or the elected official be involved in those decisions, or can it be something that is done by the administration?

Mr. Sellnger: I think we could delegate more authority to our administration on these minor matters, with the right of appeal.

Ms. Friesen: You talk about the arm's-length agency. How would you make it arm's length and independent?

Mr. Sellnger: Some creative thinking would have to apply here, but the best construction of impartiality that I can think of is to have a balanced committee, a balanced set of views. Therefore you would want that body to be appointed by a balanced set of political interests so that no one dominant political interest prevails. That might mean, for example, when we did our citizens' committee on the size of City of Winnipeg council, we drew together councillors of different political factions on council and asked them to come up with a list of people that they all felt comfortable with. The arbitration model would be another excellent example, where the parties each nominate one and then they pick a third person they can all live with.

That ensures balance in the way these things are conducted.

So we have a lot of experience in the labour field on how we can put together balanced mechanisms to ensure fairness and impartiality as much as humanly possible. We might want to draw on that experience in doing these types of exercises.

Ms. Friesen: So you are not fundamentally in disagreement with Councillor O'Shaughnessy, that City Council should appoint, but you are adding other conditions to this or other mechanisms.

* (2330)

Mr. Sellnger: No, I would not say, in a blanket manner, that City Council should appoint, because City Council might be dominated by one particular group and they might put their tilt on the committee. That would create not what I am trying to achieve, which is impartiality. You might have to require that the appointments to this committee represent a balanced set of views of the council and/or members of the Legislature, such as the Department of Urban Affairs. I do not have a specific formula I am bringing forward here. I am trying to enunciate the principles by which you get there.

Ms. Friesen: When you introduced the idea of the representation of all political stripes, it raises the question, of course, of the impact of Bill 68 upon these changes to The City of Winnipeg Act. I wondered if you had—in the broad context in which you were offering us, of the balance of principles or the choices that you would make between those principles, what is the impact of Bill 68, and the reduction of City Council to 15, on the many areas of Bill 35?

Mr. Sellnger: The most obvious impact is that you can have eight people out of 15 running the affairs of the city and that causes me great concern. You would have to have legislative provisions to ensure that that group of eight or nine, whoever the majority might be, did not exercise its will to the exclusion of other points of view with respect to these kinds of appeal mechanisms. So it would just make it easier for a small group to take control.

Ms. Friesen: I do not know if you had a copy of the presentation from the Environmental Council, which just preceded yours, but one of the statements that they began with was, without a doubt the worst aspect of this bill is that it eliminates the protection for the waterways of the city. I wondered what comment you might have upon that, again in the context of the principles you suggest.

Mr. Sellnger: Yes, and I mentioned that with respect to the environmental impact study. I think that the waterways do not begin in the city and in some cases do not end in the city, so I am not sure that the city should have complete and exclusive jurisdiction over the waterways within their boundaries. I think that responsibility has a larger impact on the province and the province should retain some residual role in setting standards for environmental protection of the waterways.

Ms. Friesen: I am not sure what you mean by residual role.

Mr. Sellnger: What I mean by that is they should have some standards to ensure that the City Council does not willy-nilly do whatever it wants with the waterways within the city.

Ms. Friesen: It is what I might put perhaps more directly, that the province should take the leadership role in establishing the environmental standards, not a residual role.

Mr. Sellnger: They should have a leadership role in environmental questions generally within the province, and in those responsibilities and rights that they give the city to fulfill, they should meet those standards.

Mr. Santos: Madam Chairperson, on the assumption, and this is the correct constitutional assumption, that municipalities are the creation of provincial government, you stated, councillor, that it is the role of the province to set minimum standards and that the province cannot substitute the idea of political accountability and replace the standards of fairness. But do you also subscribe to the fact that as much as possible, within the confines of The City of Winnipeg Act, that the city should have autonomy in those areas of activities within its proper jurisdiction?

Mr. Sellnger: With the qualification I made, yes.

Mr. Santos: It seems to me there is an attempt on the part of this bill to improve the efficiency of decision making by granting some area of responsibility to the city. At the same time, in your opinion, because there is an absence of minimum standard of fairness built into, as criteria or standard for those activities, do you feel that there is, in effect, what you have stated, political abdication rather than a grant of authority?

Mr. Selinger: Yes, I am suggesting that by giving the entire ball of wax to the city in these several important areas, that the province no longer has any role to maintain standards, and by definition they are abdicating responsibility for municipalities, which is theirs constitutionally.

Mr. Santos: What kind of standards of fairness will be written into the act that would eliminate the role of political values and value preferences of people who are acting within the political arena? Is there such a standard of fairness that will be entirely neutral in regard to political beliefs and systems of values?

Mr. Selinger: There is certainly no perfection in these areas. The quest is to try to move toward improving the quality of fairness and impartiality with respect to appeal matters. For example, on the procedure items, you should have a minimum amount of time that you give notice for rezoning or variance and conditional use application. It might be 14 days, it might be 21 days, but there should be some determination of what a minimum notice is before you go to a public hearing, and that should be laid out and be very clear.

Mr. Santos: You are saying that such minimum standards should not be left with the City Council itself.

Mr. Selinger: Not in their entirety.

Mr. Santos: Thank you, Madam Chairperson.

Madam Chairman: Thank you for your presentation, Councillor Selinger.

Committee Substitution

Madam Chairman: Mr. Ducharme, on a point of order?

Mr. Ducharme: Could I have leave to make or recommend a change?

Madam Chairman: Is it the will of the committee to grant leave to Mr. Ducharme to make a committee change for tomorrow's committee meeting?

An Honourable Member: Leave.

Madam Chairman: Leave.

Mr. Ducharme: The composition of Municipal Affairs: Gerry McAlpine, Sturgeon Creek; Gerry Ducharme, Riel.

Madam Chairman: Thank you, and that committee change will be reported to the House tomorrow through the regular process. It is not a point of order.

* * *

* (2340)

Madam Chairman: Our next presenter is Councillor Shirley Timm-Rudolph, representing Springfield Heights Ward. Do you have a written presentation, Councillor Timm-Rudolph?

Ms. Shirley Timm-Rudolph (Councillor, Springfield Heights Ward, City of Winnipeg): Actually I do not. I just found out about this evening's meeting this afternoon so I am here on rather short notice, but I am going to keep my presentation extremely brief.

I just wanted to somewhat react, though, to some of the comments that were made by the previous speaker, if I just might. I guess a couple of things: one is some comments that were made, first of all, by one of your members, being Jim Carr. I would like to basically ask that the record be corrected. He made somewhat of an inaccurate statement, saying that secondary plans or community plans—none of which were ever adopted by City Council. That is in fact an inaccurate statement, and quite frankly there had been a number of community plans established in the City of Winnipeg, I know for a fact—even within my own constituency, in which there are two that currently exist.

So the record should be clarified. Nonetheless, I will also point out, while the legislation indicates very clearly that council was mandated to provide those planning districts, I think I should point out to this committee that there was never, ever an established time period or time limit as to when they should be completed. So it was at the discretion of council, as they saw the need, and the need arose, that they would establish those at that period in time.

In the approximately five years that I have served as a member of City Council, and I guess the time that I had, as I put it, kicked around the chambers of City Council—and that was a couple of years prior to running for City Council, so I guess in total I could say probably eight or nine years that I spent time in the chamber, both as a member and just a citizen of the city of Winnipeg—I clearly remember, I recall, and also have participated very clearly as a member of council, in asking on numerous occasions, both of this government and previous governments, that we be allowed to be the masters of our own house.

We wanted permissive options to be placed in the hands of council, so that ultimately we who sought election would be held accountable and responsible for the decision-making process. It is a pretty weak argument when you keep going back to constituents and saying, well, you know, the province does not let us do this, the province does not let us do that. It is very difficult for citizens out there to understand that we are a creature of the province of Manitoba and legislated, in effect, to be in existence.

They understand where they pay their taxes and they expect you to render the decisions. I guess with regard to some of the concerns that were raised by the previous speaker, I have always felt this way: he who giveth can taketh away. There is an abuse of power or a lack of responsibility by those who are there to serve the public? Then you, as the senior level of government, could very quickly take away those delegated authorities to members of council. So, quite frankly, I feel that there are those options in terms of reversal if there are those abuses taking place.

In general terms, I wish to acknowledge that I support two other previous speakers, Councillors Gilroy and O'Shaughnessy, with regard to the amendments that they had indicated were before Executive Policy Committee. I wish to be placed on record to indicate that way, that it was unfortunate that this item had never been able to be dealt with on the floor of council. As a member of the Executive Policy Committee as well as a member of the ad hoc committee that sat with Councillor Gilroy and our administration, we wrangled through the proposed amendments, and I feel very confident and satisfied with our recommended amendments. I am saying that on a personal basis.

I feel that even in the case of the appeal committee, I would indicate this, while the request is for permissive legislation that would allow us to have either an appeal committee made up of citizen members or an appeal committee made up of council members, I quite frankly, if the option is presented on the floor of council, would prefer to see members of City Council sit on that committee on a year-to-year basis so that there is consistency overall and would like to see all the members of that committee be made up of the specific community committees and if, after you deal tomorrow, there is less than six, whatever that number is.

I also feel very strongly that the local councillors, the ones who have had heard the representation at their local community committee, at this point in time are not allowed to sit in the variance appeal committee and participate. I think they should be allowed to be there to bring the understanding of where the community committee was coming from when dealing with those specific issues. I think there is a lack of that, and that is primarily where we have a lot of problems at that particular committee level.

So, other than that, Madam Chairman, if there are any questions, I would be prepared to entertain those.

Mr. Chairman: Thank you, Councillor Timm-Rudolph. I am sure there will be questions from the committee.

Mr. Santos: I am struck by the statement of the councillor saying that he who gives power can take it away. It seems to me that power is not a thing that just can be given. It is some kind of a relationship that is too complicated, that is established in the course of time in dealing between two entities, whether it be province or city or individual or individual. Once it is given, assuming it can be given, do you think it will be easy to take away power that had already been enjoyed by the recipient?

Ms. Timm-Rudolph: I think that could in fact happen in a number of different realms. One is the government of the day, if it chose to make those amendments, reverse those amendments, they would have the options to do so. There is also the electorate out there, and if they feel that there has been abuse of power or a particular group on council has overstepped its bounds, have not been fair to the citizens, they too have the right to put those members out. So there are two ways that power can be taken away.

Mr. Santos: The councillor also stated that she, if posed to the position that she has to make a choice, will opt for members of the planning appeal committee to be members of the council who are politically accountable rather than appointed members by the government.

Ms. Timm-Rudolph: That is right.

Mr. Santos: The danger of that is that if there is a dominant group in City Council that is subservient to some specific vested interest in the city, it will be entirely a captive of that vested interest and subservient to its wishes. Would she make her reaction to the submission by the Manitoba Environmental Council that there be some kind of a

joint appointment to that appeal committee by the council and the province or some kind of a system whereby there will be unanimous consent of council to whoever will be appointed thereby by the province?

Ms. Timm-Rudolph: I guess to answer your last question first. I do not think you will ever find unanimous consent of 30 members of council or even 15. I think that is entirely impossible. I think, though, what you suggest in terms of having a fair committee struck, one of the concerns being that if you have a dominant group on council, that would be one way of accomplishing it. I think that dominant group on council would then appoint the people whom they want on that committee. The makeup of a committee would have to cease and new members appointed at some point. You would rotate the membership.

I think, quite frankly, a dominant City Council would then appoint a dominant-leaning group of their choice. I do not know how you would get away from that kind of thing, whereas, at least when the elected representatives are there, if they choose to react or act in a particular fashion, they too again will be held accountable at the appropriate time and place either through election or through changes in the ministerial. I mean, it is not unusual for ministers to get letters from constituents, from people who are upset, concerned, fed up, whatever you want to call it, that ask that changes be made to City Council. They could do so.

Mr. Santos: When the councillor stated that she wants City Council to be master of its own house, does she imply that City Council would itself lay down the standard under which programs and activities will be undertaken without any review at all by the province?

Ms. Timm-Rudolph: In referring specifically to the amendments that are before us, I do not think that is as quite a difficulty as the member may be trying to allude to. I do not think they are that permissive, that they would go over the cliff in an extremely unbalanced situation. I think you are always going to find on council where you have a good mix of representation; it has always happened that it starts off that way. Sometimes people start to go into different camps for whatever their political reasons are, but they start off, I think, with good intentions. I think that a lot of these things can work and work extremely well. As I said, if they become unfairly dealt with, I think they would become either potential issues for an election or issues that would end up coming back to the Legislature for change.

Mr. Santos: With respect to the use of the riverbanks, does the councillor believe that it should be entirely within the control of the city?

Ms. Timm-Rudolph: I think considering that the City of Winnipeg basically took a lot of initiative in respect to riverbanks, I think we are one of the few municipalities that have really gone a long way in dealing with riverbank and river-type issues. I think Councillor O'Shaughnessy's comments earlier—he happens to be, I believe, at one time or still is the chairman of the riverbank committee. I would concur in his position that the amendments are just fine with the City of Winnipeg.

* (2350)

Mr. Santos: If I were to believe what I read in the paper that one of the greatest polluters of the river is the city of Winnipeg itself, how can the city argue against its own interests in protecting the environment?

Ms. Timm-Rudolph: I do not go by newspaper stories because they are quite inaccurate on a lot of occasions. I will still stand by our administrative reports and any other reports that come from provincial government health inspectors. That is not to say that there is not room for improvement. I think everybody will acknowledge that, but I do not know how those issues really relate to the amendments at this point in time.

Madam Chairman: Are there further questions of Councillor Timm-Rudolph? If not, I would like to thank you for your presentation.

Our final presenter this evening is Mr. Harold Taylor, private citizen. Mr. Taylor, do you have a written presentation and copies for the committee?

Mr. Harold Taylor (Private Citizen): No, I do not. I am going to be making comments on a series of clauses that I have concerns about.

Madam Chairman: Thank you. Please proceed, Mr. Taylor.

Mr. Taylor: First, I would like to address in this act the general environmental section, which is a very tiny part of the act, Clauses 595(1), which says the city may carry out environmental assessment. I find that this is incompatible with our own Manitoba Environment Act, an act developed first in 1986 and then revised in 1988. Subsequently, I think, the time has come where if an environmental impact

assessment is required, it has to be required as a necessity and not a "may" clause.

The interesting thing, too, is that the next Section 595(2) refers to content, content saying that the city will be the arbiter as to whether it is a full assessment in that the contents meet professional standards on an environmental assessment. That sort of position serves nobody. It serves neither the community, and it does not serve the authors of this document certainly.

I also noticed that there is a section on airport protection. I refer directly—the clause is 589(2)(t). It says that there is the potential for a development bylaw for airport protection amongst a long list of other authorizations for this type of bylaw. It is interesting to note that we have a situation where both levels of government in recent years have not been terribly concerned about airport protection.

As one who worked in that area for some 20 years—in fact, it was the reason I came to this city—I find it abominable that that is the sort of airport protection. I hope the minister will take note of that, because what we have here is, I guess, further lip service on airport protection. We have a situation where in 1978 there was a Memorandum of Understanding developed by the federal government, Transport Canada, which was agreed to by the then government of the day, the Province of Manitoba and the City of Winnipeg government, which said that they would do everything to protect the airport, which would include things such as making certain that there was compatible zoning around the airport and, in particular, in the sensitive areas of the approaches of the various runways.

It also said that they would work hand in hand with the federal government to ensure that there were not spot exceptions in the sense of height problems or anything else. Even if it was to go beyond the existing federal legislation, the city and the province would go beyond what was absolutely the law to ensure the protection.

We only have one law in this country that offers anything close to ensured airport protection, and that is a document that was put in place by the Conservative government of Alberta in the early '70s. It is a striking piece of legislation, striking in its inclusiveness, striking in its effectiveness after over 15 years of being in place. It has never been challenged. In fact, it is almost 20 years that document has been in place. It has never been successfully challenged in court, and it stands alone. There is nothing that the feds have because many of the areas are within provincial jurisdiction and, of course, municipal. We have not had another government follow suit.

I would have thought, given the importance of this airport to the Winnipeg and Manitoba economy, given the fact that this airport has so far not been inundated with development that has compromised it—we have had a few incidences, and I will refer to those in a moment—has not had the unfortunate history of Dorval in Montreal and Malton in Toronto. Those airports have been severely infringed upon to the point Dorval had to have a companion airport built. It does have operating restrictions in quiet hours. You cannot fly jet aircraft out of there. Ditto for Toronto. The federal government does not like to use the word flight restrictions, but that is exactly what they are.

This airport is in the middle of the country. It has a strategic importance to this country, and it certainly has an absolutely important economic role to be played. What we have here is we have the ability to bring aircraft in here in quiet hours through various procedures that have been developed that are technically sound, are absolutely safe, and we can bring aircraft in here in quiet hours.

If we are going to have repeats like we had—and everybody is aware of the infamous Pines project—then we are not going to have this. Let us be fair now. The Pines is not the only infraction. There are two others, two others approved by City Council. One, it impinges on the main runway at the other end, and that was a single family home subdivision in The Maples area, and another one a little further southeast of that impinges upon the protection of the cross runway, and that was a multifamily housing division done some years ago. When you add the three of those up, you can see that the Pines is not alone. It is just the more recent, the most blatant and the most obvious one. We have three incidences of infringement on the runways and the protection for Winnipeg International Airport.

I would have hoped that with a government that is as oriented to business as this one, who I thought understood the needs of transportation for our economy and, in particular, air transportation for modern business, we would have seen protection instead of seeing this sort of thing.

I will not get into the aspects of the riverbank protection and the heritage protection which were not addressed by this government, but let us just talk airport protection. I think that section needs massive revision. It is as bad in its lack of content and lack of seriousness as the one I just mentioned previously, which was environmental assessment.

There are a number of other issues that I want to get into and, in particular, an area in which I have had more than a little experience, and that is to do with the waterways of this city. We have a heck of a resource here. We have a heck of a natural heritage. In a prairie city, we do not have big large bays of fronting shoreline like you have off of Halifax or Vancouver. We do not have the mountains that we can see as the backdrop for Calgary. We do not even have much of our natural forest left. We have a bit of it. We have a bit more that has been put in by people.

The one thing that we do have is we have our water heritage. It was ignored for too long. It was abused by previous generations in the sense of the industrialization that went on our riverbanks. We ignored it, we abused it, we damaged it, we polluted it and could not give a hoot about what happened. This last generation has said, let us have something better. One just has to look a few weeks ago during the Plan Winnipeg review. One of the groups that was meeting was asked to set, first of all, their issues of concern and then prioritize them. They came up with a couple of dozen.

Water pollution was one of them. I think it was down about No. 3 or 4, but management of and enhancement of the waterways was the No. 1 issue. Some cynic might say well, I was behind the seats and feeding them information because I am a tree hugger from way back and I like rivers issues, but seriously, they have managed to do this all on their own, and it says something. There was no orchestration. It is saying people are concerned about these issues.

One of the things that bothers me—and I will get into some of the bigger things in a moment—is one that I think is indicative of not going the right way. It has to do with the elimination of a clause that was put in last time around. Clause 624.1(1) of the present City of Winnipeg Act deals with the prohibition of the issuing of building permits -(interjection)- over waterways.

I hear the minister mention Rae and Jerry's. He is darn right, but we can also mention some others, because there are buildings that have infringed on our waterways.

* (2400)

If it were not nightfall, we could just look out here and see an apartment building on Roslyn Road that would be, I guess, about eight doors over from Osborne Street. It was built by an engineer and developer by the name of Lazar about 15 years ago. It has to be one of the worst examples of infringement on the waterways.

The podium upon which the apartment building itself is built comes almost to the very edge of the river in the summertime. What that says is, guess where it is in flood time—inundated. That podium holds the mechanical rooms, storage and parking area for that complex. Guess what? It is unusable any springtime where we have a normal runoff. We have seen that large building developed there in a totally unacceptable fashion visually, I would suggest, and also in a very impractical way.

In this act, we talk about floodways. In 494.3(2) there is a firm expectation set by this government that there will not be infringement of the floodways and buildings permitted. There are some reasonable positions taken on floodway fringe land. That is not floodway fringe land. That is floodway. Your government is saying, we will set an expectation. We would not allow that to happen again in that way.

Why is the same expectation not being set for building over rivers and other waterways, period? The definition should say, quite frankly, what is waterways. It says what the bodies of waters are, but it should talk about top of bank. That is where the definition needs to begin. So there is a definitional improvement required.

I would suggest, instead of having what you have in 494.1(2), put back or strengthen the amendment that was passed recently, first in this room and then in the Chamber, and make sure that there is not going to be construction over waterways.

We had another infringement recently. Somebody talked about Rae and Jerry's. Of course, Rae and Jerry's is adjacent to Omand's Creek. If one goes up Omand's Creek a short distance, the Polo Park Inn—the building itself is fine, the hotel, the bowling lanes, but where the heck is the vendor's building? They are selling suds on

the waterway. The piles for that building, the west wall, are almost in the creek. That is not appropriate. That building should have been another 50 feet further to the east. That is the sort of nonsense that is going on. That is the sort of nonsense the public is saying is unacceptable.

The previous administration to yours was prepared to fund the construction of a 16-storey, 300-suite apartment building complete with massive asphalt parking lot that would have covered the full 800-foot, north-south link of what is today Bluestem Park. I see the former minister sitting over here who opened that park, and I am glad to say that he did and that he made those sort of moves. The right sort of planning was done. We have a nature park right in the centre of the city.

Think what would have happened, though. We would have lost that opportunity. The previous administration had to be embarrassed out of that project. There was finally, after a year's pressure and a lot of behind-the-scenes meetings, an agreement. The Finance Department did pull the financing for that building. What happened afterwards was, there was a negotiation. Instead of putting up a high-density, high-rise building over the creek, the land was saved so it could become Bluestem.

Out in Charleswood, on some existing MHRC-owned land, the developer made an arrangement with the province. Arrangements were weighed for the city for the proper approvals, and a medium-density, low-rise complex went in. The developer not only made as much money, but they made more money. So the final solution was fine. It was a heck of a thing to have to go through.

There are a number of examples we have had: that apartment complex, Rae and Jerry's proposing to put an office complex and car wash, the Lazar building, the vendor's building for the hotel. Those are the sorts of things that should not happen.

I would ask that this minister reconsider the elimination of that clause and the replacement of the very weak clause that is there. If he has any sense of what this community is asking for, for the protection of its waterways, he will do exactly that.

Some people have mentioned the risk of lawsuit at various times. Well, the legal advice at the time was, it would be a very weak case. I think the answer would be, if there was any real worry about a lawsuit, the only person who had any grounds whatsoever to sue the province over that amended law that went through, the previous amended City of Winnipeg Act, was Mr. Hrousalas of Rae and Jerry's. Nobody else had any rights to sue because there were no other land deals on waterways in progress at the time.

The answer to that would be, work with the City of Winnipeg, recobble the deal. I do not think what was being asked for the land, almost two-thirds of a million, is reasonable whatsoever. I think greed was on the table. I think, if a deal was cobbled together along the lines of what had been negotiated after two years, and the province played a role in ensuring that happened, you would save the law and you would save the protection of other similar pieces of land. You would have no lawsuit, and there would not be any embarrassment. What we would have instead is some protection and some leadership.

I want to speak now in a more general sense about rivers management. I took a few minutes before coming down to this committee and went through some of my files on river issues. One of the things that came up was numbers of conferences on this matter. We can talk back about studies done by Rivers and Streams committees. I know the Minister of Urban Affairs (Mr. Ernst) at the head of the table, the former Minister of Urban Affairs, both, when they were on City Council, might recall a study done in the very early '80s by then Councillor Angus. That was one of the things that started things going.

There was another study done back—and I hold it up. This is the actual consultant study as a result of public hearings held by an ad hoc committee on jurisdictional problems on the river. This is back in 1985. This one here was one that really got things moving when we had a whole series of problems come up on the rivers, and everybody kept turning up at Rivers and Streams. Rivers and Streams did not have the authority to deal with the matter. They were restricted to impedance of flow and making sure you do not unnecessarily load the banks and cause bank failures.

This particular study was put out, quite frankly, because of all the people who came forward. The various stakeholders, agencies from all three levels of government said, what are they doing; what needs to be done; where are the problems, that sort of thing. As a result of that, as a result of The City of Winnipeg Act review carried out by the previous administration in the mid-'80s, both came out and

said, we need some better way to administer our rivers in the city of Winnipeg—the right thing. Now many solutions are available out there.

We had a conference in the city of Winnipeg by the University of Winnipeg in '85. It talked about the whole thing of urban rivers expanding our vision. There was a later one done by the Institute of Urban Studies and it was toward stewardship of Winnipeg's river corridor. That was in 1989-90. In fact, I believe that there was representation there from the province. In fact, the former Minister of Urban Affairs gave the introductory address, and the now acting deputy minister, Mr. Beaulieu, also put forward a position, as did numbers of other people.

We have had conferences in Ottawa where there were speeches by Winnipeg representatives, including the mayor of the City of Winnipeg, former M.P. Mr. Duguay, myself and others. Now when you see that sort of thing going on, obviously the need is there. Now we have had a more recent document about interim report and recommendations, and this is on specifically one area, riverbank land acquisition, but it goes on and on.

There was agreement by council on a unanimous basis that there should be a new approach. The approach required that it be multifaceted, that it deal with the some 20 different issues that are significant issues on and around and in the waterways of Winnipeg. The province was not able to respond, for whatever reason, in a timely fashion. They did come back last year. A discussion paper was put forward. Unfortunately, and I am certain it was not the intention—pardon me it was put out in July '89—of the minister to present it in "take it or leave it" fashion. I say that with all sincerity, because I have dealt with that minister before. The way it came across was that, and that is really unfortunate.

I have to say the city reacted, and some people will say maybe they overreacted, but it is a sad testimony that it took some time for a response to come. The response came. It gave the wrong impression—and I think it did that innocently, but it gave the wrong impression—and it brought forward a model for reform that was a model that the city had previously rejected in the '85-86 study period when the stakeholders came forward, when that consultant report was done that I held up, and when the city officials went over for some 10 months more, going over the study and saying how does it really apply on a day-to-day basis.

In October '86, the city unanimously said, we want to have a different scenario here. We want to see a bipartite solution. They did not say it had to be this or it had to be that, but they did want to work closely with the Province of Manitoba, and the feeling was that because the federal government of the day was devolving its authority in one way after another, and in the fact that government was also not getting involved in ongoing funding exercises—and I am not talking about things like Core Area, North Portage, which are five-year horizons. I am talking ongoing. That is what is needed, an ongoing management solution, whether it is an authority, whether it is a commission, whether it is along the lines of the conservation groups that just celebrated their 50th year last year in Ontario.

* (2410)

Those are the sorts of different solutions that are available out there, but we do not see that in this act. We see very little reference to waters issues. I know the city rebuffed the province, and I think they rebuffed them at the peril of its citizens and certainly in an unwise fashion. The minister went back to the city. The province came back with a slightly modified, slightly more mellow position. I think that was most unfortunate, because the minister of the day did put out his hand and say, talk to us, and the city did not.

As a result, my understanding is that the province has taken this issue off the agenda. We do not see the specialist that was brought in from the Miwasin (phonetic) Valley Authority to become the in-house expert on rivers issues. We do not see her dealing much with rivers issues anymore, mostly with general urban matters, and I think that is a loss to us in the city of Winnipeg.

We do not see a budget line item anymore for rivers in the City of Winnipeg in the Department of Urban Affairs. I know we do not see it in Natural Resources, but it is a shame we see nothing there now. So what we have had is a start in the mid-late '80s. I think we have come to a rather serious and unfortunate impasse, and I am beseeching this government, notwithstanding the different political colours, to please have a look at this on behalf of the citizens of this city. It deserves your attention; it deserves your efforts; and it deserves a serious position, including an opening or reopening of negotiations with the City of Winnipeg itself.

Let us see some serious efforts and, after that, some solutions with public involvement to develop a model which will be acceptable to the province, which will be acceptable to the City of Winnipeg corporation and, of course, to our citizens, and that will require public involvement. Thereafter, hopefully, we will see the group going down the road together and some dollars being put there and seeing some improvements.

When I spoke on this subject a month ago in Saskatoon to the Annual Conference of the Canadian Water Resources Association, under the name of Waterscapes '91 (phonetic), which was a rather massive international conference with some two dozen countries represented. I was the opening speaker for a series of case studies on cities around the world and how they are dealing with their water issues. I had to put that story forward, and there was a little chagrin on the part of the Winnipeg delegates, I do not mean just City of Winnipeg delegates, but delegates from Winnipeg, that I had to be as blunt as I was.

I took the 30 minutes allotted for the speech and I had, as the opening speaker, an hour for question and answer, and we filled it. The questions and answers that came from the delegates outside Winnipeg were heartening because they said, this is unfortunate, have you tried this, have you looked at that, this is our experience, we had luck with this sort of a solution.

There were all sorts of ideas there, ideas that we could take, and I am prepared to sit down at any time with any of the ministers and with any of the staff members to talk about those sorts of things, because we have got to put aside partisan politics and rivalry between levels of government. We have got to break the logjam, and we have got to get on with offering proper administration and preservation enhancement for environmental reasons, for recreational reasons, and for economic benefits.

So let us get going on it, and I do not see it here in this act at all, and because of that I am very, very disappointed. I think we can do better for our citizenry, and I encourage the government to do just that. Thank you.

Madam Chairman: Thank you, Mr. Taylor. Are there questions of the committee? Thank you for your presentation.

Mr. Taylor: Thank you, Madam Chairperson.

Madam Chairman: This concludes public presentations on Bill 35. This committee will meet tomorrow morning at 10 a.m. to hear the public presentations on Bill 68, after which time the committee will deal with Bill 35 clause by clause.

Ms. Friesen: Just for clarification, I believe that the Manitoba Naturalists Society was going to present and they are on the list for tomorrow. Am I right? You called them at the beginning and the Clerk made a comment.

Madam Chairman: My understanding from the Clerk is that it was not a definite yes, it was a maybe.

Ms. Friesen: Could I clarify then that if they do come and they want to speak on Bill 35, that we will allow that?

Madam Chairman: Is that the will of the committee? Right at the beginning of the committee, yes. If they do indeed appear tomorrow morning at 10 a.m., they will be permitted to speak first before we proceed to Bill 68.

Committee rise.

COMMITTEE ROSE AT: 12:17 a.m.

WRITTEN SUMISSIONS PRESENTED BUT NOT READ

Bill 35—The City of Winnipeg Amendment Act

On behalf of the members of The Winnipeg Real Estate Board, we appreciate the opportunity to provide our recommendations to the committee on Bill 35. As an organization of over 1,700 members involved in the marketing, appraising, and financing of real estate, we support initiatives in the bill that will expand and ensure local government accountability while clarifying city and provincial responsibilities. We also applaud efforts to consolidate and streamline the legislation and decision-making processes, particularly as they affect city zoning and planning.

We do wish to express concern and offer some recommendations on three specific sections of Part 20, Planning and Development, of the bill.

Minor Tolerances

Presently, it is the practice of the City of Winnipeg to grant tolerances on properties where they are of a minor nature. For example, a yard tolerance involving a matter of inches that is not detectable to the eye or will injure or affect abutting property owners is deemed a minor variance or tolerance and

is not dealt with through the prescribed variance procedure.

Under Bill 35, there are a number of sections which will alter how these tolerances or minor variances will be dealt with. First, under Section 607(1), council may, by bylaw, refer applications for orders of variance to a designated city administrator.

Subsequently, in Section 644(3), it specifies that "when a designated city administrator makes a decision that is subject to appeal under this PART, he or she shall as soon as practicable give notice by mail, in accordance with a By-Law passed under Section 629, of the decision and the right to appeal the decision to the PLANNING APPEAL BOARD (a) to the applicant; (b) in the case of a variance under Sub-section 607(3), to the owners of adjoining land."

According to Section 648(1), following notification of a decision under Section 644(3) "a person . . . who is notified of a decision by a designated city administrator under Sub-section 644(3), may appeal the decision . . . in accordance with the procedure set out in a By-Law passed under Section 629."

The result of the above proposed changes will be that for each and every minor variance granted the City of Winnipeg will be responsible to advise abutting owners of the variance and to provide them with the opportunity to appeal the same. Our board has a number of concerns with this scenario as it will result in increased costs for the city at a time when it is seeking to minimize its expenditures.

Secondly, it is our understanding that the city annually processes approximately 4,000 minor tolerances which generally involve such things as side yard tolerances or area rules of a very small amount. Having to contact literally thousands of adjoining property owners to provide information on the tolerances being granted, where these tolerances have no effect on the use or value of adjacent properties will prolong or possibly prevent the sale and purchase of affected properties.

When a property requires a tolerance, any prospective purchaser and vendor under this proposed legislation will have to await the outcome of the notification process prior to concluding the transaction and securing a zoning memorandum from the city. The statutory Offer to Purchase for the purchase of single family homes specifies that a vendor will provide to a purchaser that his or her property is "free from all encumbrances, easements and encroachments by adjoining structures . . ." and further "subject to all structures on the said land complying with all applicable building and zoning restrictions and not encroaching upon the limits of the said land . . ."

The potential for a transaction being jeopardized is compounded by the act requiring delivery by mail to the address of the person being serviced, i.e., to the owners of the adjacent properties. To comply with the act as it now stands would require an appropriate passage of time to ensure that the city had communicated the nature of the minor tolerance to be granted to adjoining property owners and further to provide some reasonable period of time to allow for any subsequent appeal. The result will be an excessive and an unreasonable delay in property transactions.

We recommend that Section 607(3) be amended to allow the granting of minor tolerances without notice and appeal to adjoining property owners. The criteria to determine what is minor must be specified in the bylaw to ensure such criteria is reasonable and will not prejudice or impair the use and enjoyment of any adjoining properties.

As an industry, we are acutely aware and supportive of private property rights. We, therefore, wish to emphasize the need for definitive parameters being established in regard to what constitutes a minor tolerance.

Use Variances

A second area of concern is Section 574 of Bill 35 under Definitions which states that a variance "means the modification of a provision of a development by-law, other than a change in use." The result of this definition by excluding "change in use" will prevent the city from being able to grant, as it presently does, use variances.

It is our understanding that approximately 50-75 use variances are granted each year by the city, primarily in commercial situations. We would support the continued ability to secure use variances, as they offer the ability to deal with very specific circumstances and do not necessitate a bylaw change due to the unusual or unique situation of one property.

The discontinuance of use variances will frustrate the ability to address the circumstances of a specific property situation on its own merits. For example, a use may be deemed entirely appropriate for an individual property but the necessary bylaw change

would be deemed detrimental as it will establish a precedent for all other properties in the surrounding area affected by the bylaw. The use variance allows City Council to be issue specific.

It is also very difficult, if not impossible, for the city or provincial government to consider and document any and all potential uses, allowable or conditional, in any development classification. Services and products change so rapidly that one cannot possibly predict all possible uses that may have to be dealt with under a bylaw. To ensure legitimate uses can be accommodated, use variances provide a reasonable discretionary ability for council to consider and accommodate unique situations without prejudicing or destroying the intent and integrity of existing bylaws.

Written Objections

The last area of concern we wish to address to the committee relates to proposals in the bill which will allow parties to submit written objections to a committee report subsequent to a public hearing conducted by that committee. Under Section 644(1) it states that, "when a committee of Council makes a report to Council under this part, the clerk of the committee shall as soon as practicable give notice by mail, to the applicant and any person who made representations at the public hearing, of the content of the report and the right to file an objection to it . . . ."

Further, in Section 645(1), council is required to consider any objection filed regarding a committee's report and Section 647(1) specifically allows anyone objecting to a committee report to file an objection with stated reasons.

Unfortunately, the result of these procedural changes is to enable anyone objecting to committee report to submit their objections in writing with the potential of submitting new information or evidence that only council would have the opportunity to review. Any of the participants in the original hearing, other than parties submitting the objection to the committee report, would not have the opportunity to respond to this new information unless each and every individual or group that attended at the hearing were copied with all written objections.

While we have concern with the logistics of providing copies of written objections to all participants at the initial committee hearing, it would appear that such distribution is the only manner in which to ensure fairness and due process. The alternative is to not allow for the submission of written objection subsequent to a committee report or to require the distribution of written objections when they include new information or evidence.

We have attempted to highlight our major concerns regarding Bill 35. If we can assist the committee or Department of Urban Affairs in further discussion on the issues raised, we would be pleased to do so.

Thank you for your consideration and review of our submission.

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Winnipeg Real Estate Board